

Beyoglides, Jr., Harry G. v. Montgomery County Sheriff

Keith O. Wayne

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

* * *

HARRY G. BEYOGLIDES, JR.,
Special Administrator of
the Estate of Robert Andrew
Richardson, Sr., Deceased,

Plaintiff,

vs.

CASE NO. 3:14-cv-00158

PHIL PLUMMER/MONTGOMERY
COUNTY SHERIFF, et al.,

Defendants.

* * *

Deposition of KEITH O. WAYNE, Witness
herein, called by the Defendants for
cross-examination pursuant to the Rules of Civil
Procedure, taken before me, Caryl L. Blevins, a
Notary Public in and for the State of Ohio, at
the Ross Correctional Institution, 16149 State
Route 104, Chillicothe, Ohio, on Tuesday, the 7th
day of June, 2016, at 1:16 o'clock p.m.

* * *

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<p>1 EXAMINATIONS CONDUCTED PAGE 2 BY MR. PREGON:..... 4 3 BY MS. STARTS:..... 91 4 BY MR. HILL:..... 99 5 BY MR. PREGON:..... 110 6 7 EXHIBITS MARKED 8 (Thereupon, Defendants' Wayne 9 Deposition Exhibit A, Mr. Wayne's 10 5/19/12 handwritten statement, was 11 marked for purposes of 12 identification.)..... 22 13 (Thereupon, Defendants' Wayne 14 Deposition Exhibit B, Mr. Wayne's 15 5/19/12 handwritten statement 16 without DOB, SSN, Officer, and 17 location, was marked for purposes of 18 identification.)..... 110 19 20 21 22 23 24 25</p>	<p>1 KEITH O. WAYNE 2 of lawful age, Witness herein, having been first 3 duly cautioned and sworn, as hereinafter 4 certified, was examined and said as follows: 5 CROSS-EXAMINATION 6 BY MR. PREGON: 7 Q. Okay. Can you state your name for 8 the record. 9 A. Keith Orlandis Wayne. 10 Q. Okay. Mr. Wayne, have you ever given 11 a deposition before? 12 A. No, sir. 13 Q. Okay. We met just before we got 14 started. Again, my name is Jamey Pregon, and I 15 represent the Montgomery County Sheriff's Office. 16 We'll be asking some questions. We 17 understand that you may have witnessed some events 18 that happened in the jail back in 2012, so we're 19 here to ask you about that. 20 A. Yes, sir. 21 Q. When you answer questions, can you 22 please be audible, stay away from the head shakes, 23 head nods, uh-hums -- 24 A. Yes, sir. 25 Q. -- because it's hard for her to take</p>
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<p>1 APPEARANCES: 2 On behalf of the Plaintiff: 3 Spangenberg, Shibley & Liber 4 By: Michael A. Hill Attorney at Law 5 1001 Lakeside Avenue East Suite 1700 6 Cleveland, Ohio 44114 (877) 696-3303 7 mhill@spanglaw.com 8 On behalf of the Defendants Montgomery County Sheriff Phil Plummer, Deputy Sheriffs Linda 9 Shutts and Andrew Wittman, Sergeants Brian Lewis and Ted Jackson, Corrections Officers 10 Michael Beach, Tonya Benjamin, Matthew Henning, Dustin Johnson, Bradley Marshall, Keith Mayes, 11 and Michall Stumpff: Dinkler & Pregon 12 By: Jamey T. Pregon Attorney at Law 13 5335 Far Hills Avenue Suite 123 14 Dayton, Ohio 45429 (937) 426-4200 15 jpregon@dinklerpregon.com 16 On behalf of the Defendants NaphCare, Inc., Brenda Garrett Ellis, Nurses Jon Boehringer, 17 Felicia Foster, Kristy Kruse, Krisandra Miles, and Medic Steven Stockhauser: 18 Reminger Attorneys at Law 19 By: Carrie Masters Starts Attorney at Law 20 525 Vine Street Suite 1700 21 Cincinnati, Ohio 45202 (513) 455-4013 22 cstarts@reminger.com 23 * * * 24 25</p>	<p>1 that stuff down. Okay? 2 A. Yes, sir. 3 Q. And, Mr. Wayne, if you answer a 4 question, we'll assume that you understood what we 5 were asking you. Okay? 6 A. Yes, sir. 7 Q. So if you don't understand, will you 8 please tell us that? 9 A. I will. 10 Q. Okay. Mr. Wayne, how old are you? 11 A. Forty-seven. 12 Q. Okay. And we're here at the Ross 13 Correctional Institution. How long have you been 14 here? 15 A. About four years. 16 Q. Okay. And you've been convicted of 17 felonies to be here? 18 A. Yes, sir. 19 Q. What were you convicted of? 20 A. Rape and gross sexual imposition. 21 Q. Okay. And did you stand trial for 22 that? 23 A. Yes, sir. 24 Q. And that was in Montgomery County? 25 A. Yes, sir.</p>
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<p>1 Q. And was that 2012?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Okay. And in 2012 you were being</p> <p>4 held at the Montgomery County Jail. Was that</p> <p>5 being held before trial?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Okay. Now, the event that we're</p> <p>8 going to talk about happened on May 19th of 2012.</p> <p>9 A. Yes, sir.</p> <p>10 Q. Okay. Do you remember the event?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Before we get to that, let me ask a</p> <p>13 little more background about you, sir. Other than</p> <p>14 what you're here for, incarcerated for, have you</p> <p>15 been convicted of any other crimes?</p> <p>16 A. Yes, sir.</p> <p>17 Q. What else have you been convicted of?</p> <p>18 A. CCW, CCW, CCW.</p> <p>19 Q. Okay. And when was that?</p> <p>20 A. In 1993 CCW.</p> <p>21 Q. Okay.</p> <p>22 A. And 1999 CCW.</p> <p>23 Q. Okay.</p> <p>24 A. And in 2005 CCW.</p> <p>25 Q. And you mean carrying a concealed</p>	<p>1 in college.</p> <p>2 Q. Where'd you go to college?</p> <p>3 A. I started off at Urbana and I</p> <p>4 finished up in Wilmington.</p> <p>5 Q. Okay. What kind of employment did</p> <p>6 you hold?</p> <p>7 A. I've done bill collecting, I've done</p> <p>8 data processing. I've worked at warehouses, I've</p> <p>9 worked for GM, not the main factory, but they have</p> <p>10 like another company that does parts, like</p> <p>11 Tri-Dayton, where we dealt with brakes, we dealt</p> <p>12 with rocker arms and et cetera.</p> <p>13 Q. Okay.</p> <p>14 A. I've worked at Kohl's warehouse</p> <p>15 distribution center.</p> <p>16 Q. Okay.</p> <p>17 A. Pallet recycling. I've done home</p> <p>18 remodeling, dealing with electricity, roofing,</p> <p>19 fencing, masonry, which is laying down new</p> <p>20 sidewalks and porches, siding on houses, painting.</p> <p>21 I've worked at roller-skating places,</p> <p>22 I've worked at farming, music installing, audio</p> <p>23 installing for cars. I done did a lot.</p> <p>24 Q. Okay.</p> <p>25 A. I know I did more than that, just --</p>
<p style="text-align: center;">Page 6</p> <p>1 weapon?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Okay.</p> <p>4 A. Prior to that, I was incarcerated for</p> <p>5 aggravated robbery and safecracking.</p> <p>6 Q. Okay. And when was that?</p> <p>7 A. '88.</p> <p>8 Q. Okay. Did you serve any time for the</p> <p>9 CCWs?</p> <p>10 A. Yes, sir.</p> <p>11 Q. How much time?</p> <p>12 A. I was dealing with the Parole Board</p> <p>13 at that time period, so the first CCW, I served</p> <p>14 six years and seven months.</p> <p>15 Q. Okay. And then for the other two?</p> <p>16 A. The second one, four years, four</p> <p>17 years, but it was basically the Parole Board had</p> <p>18 basically sentenced me to kind of like that amount</p> <p>19 of time.</p> <p>20 Q. Okay. Was it a violation of the</p> <p>21 parole for the aggravated robbery?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Okay. I understand. Tell me about</p> <p>24 your educational background.</p> <p>25 A. A GED, Associate's degree in business</p>	<p style="text-align: center;">Page 8</p> <p>1 I'm not trying to drag it out really, but --</p> <p>2 Q. That's fine, that's fine. And you're</p> <p>3 in here until 2020?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Have you thought about what you're</p> <p>6 going to do when you get out?</p> <p>7 A. Fight my case like I'm trying to do</p> <p>8 now.</p> <p>9 Q. Okay. What do you mean by that?</p> <p>10 A. I am a -- I'm innocent of this</p> <p>11 charge, and it eats at me, so until I get true</p> <p>12 justice, not injustice, but justice, I'm trying to</p> <p>13 fight my case.</p> <p>14 I mean, if I'm unable to complete</p> <p>15 that while I'm here, when I get out, I'm picking</p> <p>16 up because this is a horrible stigma to have over</p> <p>17 you, and especially for something that I haven't</p> <p>18 done.</p> <p>19 If you were to look at my background,</p> <p>20 that's not my forte. For a while, I was trying to</p> <p>21 figure out why did they do what they did, and</p> <p>22 little things is coming. I'm finding out</p> <p>23 different information, you know.</p> <p>24 And so I'm -- I'm just -- my life's</p> <p>25 work will be fighting this, and until justice is</p>

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1 brought, the truth is brought, that's it. I'm not
 2 concentrating on no work, no nothing. I don't
 3 have -- my mind is not on anything except my case,
 4 so that's what I plan on doing when I get out.

**Q. What was the law enforcement agency
that arrested you?**

A. It was Butler County and then I was transferred to Montgomery County.

**Q. Okay. So did Butler County -- was it
the sheriff's office down there that arrested you?**

A. Police office.

**Q. Police? Okay. And the offense that
you're accused of, that happened in Butler County?**

A. Yes, sir. No, it happened in Montgomery County.

**Q. Okay. Were there any law enforcement
agencies in Montgomery County that were involved
in investigating your case?**

A. That's who was primary -- the primary officers, the department, was Montgomery County investigating it.

I had spoke to a detective twice, and the first time I spoke to him, when it was all brought to my attention, my cousin had told me about it, like, you know, the police is at your

1 them at the training service, and he told me he
 2 going to contact the person that he has running
 3 the bond service, which is Macio, to get in
 4 contact with me.

5 Then he did that and then he called
 6 me and he said, I'm on my way to come to you, and
 7 then he came to me, he said, come ride with me.
 8 We going to go see a lawyer together. Went to my
 9 lawyer's office. They was closed.

10 He said, well, we have lawyers in our
 11 building, he said, if you want to speak to
 12 somebody. I said, yeah, so he called them. She
 13 said it would cost me X amount of money just to
 14 talk to her, so I went and talked to her.

15 She explained a retaining fee would
 16 be five thousand dollars. It didn't make sense to
 17 me when I already had a lawyer on retainer, and so
 18 I paid her for just talking to her.

19 She told me that I should not speak
 20 to the police, period, without a lawyer, period,
 21 but what was steady going on in my head was, I
 22 don't have anything to hide.

23 I really don't -- I was reverting to
 24 before I spoke to my cousin, which is I don't have
 25 anything to hide. I don't really need nobody. I

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1 apartment, da-da-da-da-da-da-da, they looking
 2 for you, and I'm thinking it was about somebody
 3 came by with a gun in our apartment building, and
 4 he's like, no, they looking for you pertaining to
 5 alleged rape pertaining to Angelica Jones, so I
 6 said, what? I said I'm on my way over here.

7 He said, no, Bro, don't come here.
 8 The police here. I said, that's who I need to
 9 talk to. He was like, no. You're always telling
 10 me to think. Why don't you think for a change.
 11 Why don't you speak to your lawyer and speak to a
 12 bond service -- I have a cousin that has a bond
 13 service -- speak to a bond service and then go to
 14 the -- with them to the police.

15 I said, I ain't got nothing to hide.
 16 I'm going to them. He was like, no, Dude. Will
 17 you just take five minutes and do what you always
 18 tell me to do, which is think before I move. I
 19 said all right, Bro.

20 I hung up, sat for five minutes.
 21 Made sense. I called to my lawyer's office, I
 22 couldn't reach them. Then I called the bond
 23 service. My cousin, he had his dogs at a training
 24 class because he owned a restaurant and drive-thru
 25 and et cetera and he got attack dogs, so he had

1 can just talk to them, you know what I mean?
 2 So -- and with my history, I kind of
 3 should know better, and I really ain't really
 4 never paid attention to your Miranda rights when
 5 they read that to you.

6 A lot of people, I don't think it's
 7 too many people that really understand that, which
 8 is that you have a right to remain silent, and
 9 anything you say can and will be used against you
 10 instead of, you know, it will be used against you.
 11 It's not that it's going to try to help the
 12 situation. It will be used against you.

13 So long story short, after speaking
 14 to the attorney that wasn't mine, I spoke to the
 15 detective, and he had called me, asked me
 16 questions.

17 I said, well, as soon as I'm able to
 18 get with my lawyer, I'm coming in to see y'all
 19 immediately, which should be within twenty-four
 20 hours. So then I had left, and the lady also told
 21 me that I should get out of my district or my area
 22 until I see my attorney.

23 So I went home to my wife and when I
 24 was down there, she had came, picked me up, and
 25 then she had went to Walmart. She had to buy some

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1 food and stuff for my son for his lunch tomorrow
 2 and all that stuff.
 3 So while we were at Walmart in the
 4 parking lot, when she was on her -- when we was on
 5 our way in, the detective called me again, so I
 6 spoke to him and I told her, I'll be in there with
 7 you in a minute.
 8 So I was talking to him on the phone
 9 and once again I was explaining to him everything
 10 that happened and then I told him that you don't
 11 have to waste no gas or nothing, I will be to see
 12 you first thing in the morning when my lawyer's
 13 office opens. I will come down there with my
 14 lawyer.
 15 So after I hung up from him, my wife
 16 came out, I told her that that was them on the
 17 phone. We had went to the house. I went to -- we
 18 went in and I hugged my son, and I was about to go
 19 and get myself ready for bed.
 20 So then next thing you know, my son
 21 came in the bedroom with the phone like, Dad,
 22 somebody want to speak to you. I'm like, who is
 23 it? He said, I think it's the police.
 24 I got the phone. I'm like, hello?
 25 They asked, is this Keith Wayne? I said, yeah.

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1 questioning me the second time, instead of just
 2 plainly questioning me, he started being
 3 accusatory and saying that I was lying about this
 4 and lying about that, and I'm like, I don't have
 5 no reason to lie.
 6 Well, up under these circumstances,
 7 you might find a reason that I -- you can consider
 8 for me to lie, but I'm not lying. This is exactly
 9 what happened.
 10 If you pay attention to when I spoke
 11 to the detective on the phone and check the -- you
 12 know, the story, it -- I'm not wavering. It's the
 13 truth. The truth is easy to remember.
 14 And then he started trying to go
 15 in -- I said, well, you being kind of hostile and
 16 exceptional now. I'd like to have my attorney
 17 present to continue this conversation. So --
 18 **Q. Okay. When did you stand trial in**
Montgomery County?
 19 A. I don't remember the date, but it
 20 was -- I was in county for maybe like seven
 21 months.
 22 **Q. Okay. Was it after May 19 of 2012?**
If you don't remember, that's fine. You can --
 23 A. Yeah. It was -- it was -- I don't

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1 They said, well, we have your home surrounded and
 2 we need you to come out with your hands up. I was
 3 like, what?
 4 And I took the phone away from my ear
 5 and I told my wife, it's the police on the phone.
 6 I'm like, yeah, they got the house surrounded, and
 7 she started panicking, like crying, you know.
 8 I'm like, Baby, don't cry, you know,
 9 et cetera, and I'm like, hold on. I'm about to
 10 just go outside, like quit crying, Baby. I'm
 11 about to go outside. You ain't got to worry about
 12 this.
 13 So I went outside, they arrested me,
 14 took me to Middletown county -- Butler County
 15 jail, and then couple hours later, Dayton police
 16 came and got me, took me to Montgomery County.
 17 They took me to I think it's the City
 18 Building, which would be in the front, which is
 19 facing Third Street, facing Sinclair. They took
 20 me in through the back and I went in there.
 21 They asked me some questions, then
 22 they took me from there to an interrogation room
 23 and I spoke to them, told them everything, then
 24 maybe the next day, they came and got me again and
 25 questioned me again and then when they was

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1 know. I'm not sure.
 2 **Q. Okay. That's fine. If you don't**
know something, I want you to say that.
 3 A. Yes, sir.
 4 **Q. Yeah. And the trial was in front of**
a jury?
 5 A. Yes, sir.
 6 **Q. Okay. And who was your attorney that**
represented you at trial?
 7 A. Bradley Baldwin.
 8 **Q. Okay. And you've taken an appeal, I**
think, to the Second District Court of Appeals?
 9 A. I did the direct appeal and my -- and
 10 I did a postconviction.
 11 **Q. Okay.**
 12 A. My appeal to Supreme is for federal,
 13 right?
 14 **Q. Right.**
 15 A. My appeal to Supreme was late because
 16 of just misunderstanding about timeline, so then I
 17 tried to file for a delay appeal and I was not
 18 granted my delay appeal, so I believe I'm in the
 19 process of going to federal right now.
 20 **Q. Oh, okay. So I just guess I**
misunderstood. So your Second District Court of

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<p>1 Appeals, you were trying to get that into the Ohio 2 Supreme Court, and you said that was untimely so 3 now you're trying the postconviction relief in 4 Federal Court?</p> <p>5 A. I already did postconviction.</p> <p>6 Q. You've done that?</p> <p>7 A. And I done direct appeal.</p> <p>8 Q. And that was to the Second District.</p> <p>9 A. Okay.</p> <p>10 Q. Okay. Do you have an attorney 11 helping you out with all that stuff?</p> <p>12 A. Right now I'm dealing with James 13 Carr.</p> <p>14 Q. Okay.</p> <p>15 A. I was also communicating with a Kort 16 Gatterdam out of Columbus.</p> <p>17 Q. Okay. And, Mr. Wayne, let me just 18 ask you up front, do you think that the Montgomery 19 County Sheriff's Office had something to do with, 20 you know, framing you?</p> <p>21 What's your theory as far as why 22 you're here?</p> <p>23 A. Because of a lie, because of the 24 individual, Angelica Jones.</p> <p>25 Q. Okay.</p>	<p>1 much stuff didn't add up. Then pertaining to my 2 request for witnesses, my attorney didn't do his 3 job, and then even pertaining to one of the 4 witnesses, I believe it would have been -- well, 5 it was her brother.</p> <p>6 I believe that the State also wanted 7 or had him as a witness in the beginning, but then 8 after him speaking with me, all of a sudden they 9 couldn't find him, and I requested him as a 10 witness.</p> <p>11 It's just that type of stuff. One 12 minute she said this, then the next minute she 13 said that, and it just was stuff that just wasn't 14 adding up to where -- and then I know, also, how 15 it goes, which is coaching a witness, you know, to 16 put on the best show, and I know that they did 17 that.</p> <p>18 Well, you sure it didn't happen like 19 this and you sure it didn't happen like that; 20 well, did he do this, and give them a look to 21 coach them into saying what they need for the lie 22 to stand up better, in my opinion. I'm dealing 23 with my opinion here.</p> <p>24 Q. Okay. I appreciate that. Okay. 25 Well, Mr. Wayne, let's talk about the incident in</p>
<p style="text-align: center;">Page 18</p> <p>1 A. I don't believe that the county jail, 2 I mean, the police department or anybody had 3 anything to do with that. I believe that they was 4 just doing their job pertaining to what she said 5 to them.</p> <p>6 Q. Okay. Okay. So I understand that. 7 I understand what your position is on that.</p> <p>8 A. But what I do believe is that the 9 prosecutor -- I'm not -- Heck? Was that Heck that 10 did mine?</p> <p>11 Q. Mat Heck is the county prosecutor.</p> <p>12 A. I don't know if that was him at my 13 trial or not, I'm not sure.</p> <p>14 Q. It may not have been. He probably 15 has assistants who do a lot of that.</p> <p>16 A. Right, but I believe that -- but 17 still, he was still doing a job, but I believe 18 that he don't -- he knew that I didn't do it.</p> <p>19 He knew -- I believe that he knew 20 that, but at the same time, as far as representing 21 his client, which was the plaintiff, he was doing 22 his job pertaining to the plaintiff.</p> <p>23 Q. Okay. Why do you think that Mr. Heck 24 knows that you're innocent?</p> <p>25 A. Too much stuff didn't add up. Too</p>	<p style="text-align: center;">Page 20</p> <p>1 May of 2012.</p> <p>2 Did you know Robert Richardson?</p> <p>3 A. No, sir.</p> <p>4 Q. Okay. Know anything about him?</p> <p>5 A. No, sir. Never laid my eyes on him 6 until -- and I still only seen him from afar.</p> <p>7 Q. Okay. Have you spoken with any of 8 the attorneys who represent Mr. Richardson's 9 estate, like Mr. Hill here (indicating)?</p> <p>10 A. No, sir. I only spoke to one, and 11 that was Mr. Hill.</p> <p>12 Q. You did speak with Mr. Hill?</p> <p>13 MR. HILL: Uh-hum.</p> <p>14 THE WITNESS: Yes, sir.</p> <p>15 BY MR. PREGON:</p> <p>16 Q. When did that happen?</p> <p>17 A. Maybe two, three weeks ago.</p> <p>18 MR. HILL: It was longer than that.</p> <p>19 THE WITNESS: A month, was it?</p> <p>20 MR. HILL: At least. I'm not trying 21 to testify, just trying to give you a better idea.</p> <p>22 MR. PREGON: You want to get sworn 23 in?</p> <p>24 BY MR. PREGON:</p> <p>25 Q. Did Mr. Hill come here to meet with</p>

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<p>1 you?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Okay. So it was here at the</p> <p>4 facility?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Did he show you the videotape?</p> <p>7 A. No, sir.</p> <p>8 Q. Okay. Okay. Did he show you any</p> <p>9 documents?</p> <p>10 A. No, sir. The only thing I seen was</p> <p>11 what you have there (indicating), which is my</p> <p>12 statement.</p> <p>13 Q. Okay. I'm not going to hide the</p> <p>14 ball. I'll give it to you.</p> <p>15 MR. PREGON: Let's mark that as</p> <p>16 Defendants' Exhibit A.</p> <p>17 (Thereupon, Defendants' Wayne</p> <p>18 Deposition Exhibit A, Mr. Wayne's 5/19/12</p> <p>19 handwritten statement, was marked for purposes of</p> <p>20 identification.)</p> <p>21 MR. HILL: Feel free to take a look</p> <p>22 at it.</p> <p>23 BY MR. PREGON:</p> <p>24 Q. Yeah (providing). Is that your</p> <p>25 written statement, Mr. Wayne?</p>	<p>1 So I sat and I thought and remembered</p> <p>2 stuff and then he asked me would I like to be able</p> <p>3 to see my statement. I said, yes, but after I</p> <p>4 think for a while.</p> <p>5 And after I got finished thinking, I</p> <p>6 told him I would like to be able to tell him what</p> <p>7 I remember and I rehashed the story to him as all</p> <p>8 I can remember, and he said, it's almost like word</p> <p>9 verbatim to your statement, and then he said,</p> <p>10 would you like to look at your statement now, then</p> <p>11 I said yes.</p> <p>12 So I looked at it, and I was lying, I</p> <p>13 forgot about how many officers it was at that time</p> <p>14 period, and it was -- I was remembering how many</p> <p>15 officers it was, and it was three or four, but</p> <p>16 they was -- it was like they was coming in -- in</p> <p>17 the immediate area, coming in shifts, you know,</p> <p>18 like one minute he wasn't that close but then he</p> <p>19 got close and stuff like that.</p> <p>20 So then I -- like I said, I read the</p> <p>21 statement and he asked me little stuff like, well,</p> <p>22 do you recall the placement of this officer's hand</p> <p>23 or do you recall anything about the nurses.</p> <p>24 I'm like, yeah, I remember the nurses</p> <p>25 because of my cousin. My cousin works in</p>
<p style="text-align: center;">Page 22</p>	<p style="text-align: center;">Page 24</p>

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<p>1 Montgomery County. What's your cousin's name?</p> <p>2 A. Richard Curington. He's over</p> <p>3 maintenance, the head maintenance guy.</p> <p>4 Q. Okay. Now, Mr. Wayne, if I</p> <p>5 understand what you testified to, first you told</p> <p>6 Mr. Hill your recollection, then he showed you the</p> <p>7 written statement?</p> <p>8 A. He had showed me the statement before</p> <p>9 I spoke about my recollection, but I didn't look</p> <p>10 at it like I didn't look at it since it's been at</p> <p>11 this table except looking at my signature and</p> <p>12 et cetera.</p> <p>13 Q. Okay. And what you recalled was the</p> <p>14 same -- you said basically the same as what was in</p> <p>15 your written statement?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And you mentioned the number of</p> <p>18 officers may have been off in your recollection,</p> <p>19 but what else was not quite right from what you</p> <p>20 recalled?</p> <p>21 A. One of the things that I didn't</p> <p>22 remember pertaining to what I wrote down, it's</p> <p>23 like few neutral things that come back, because</p> <p>24 I -- like even now I'm remembering that they</p> <p>25 brought a lot of people out of their cells and</p>	<p>1 This guy got killed up there.</p> <p>2 And guys was like, oh, what happened</p> <p>3 to that? I was like, Dude, da-da-da-da-da. Well,</p> <p>4 this guy -- you know, X, Y, and Z happened, and</p> <p>5 some guy spoke up like, yeah, man. I heard about</p> <p>6 that, man. That was my cousin. I'm like, yeah?</p> <p>7 He like, yeah.</p> <p>8 I'm like, do you got a way to get in</p> <p>9 contact with his family, with your family or</p> <p>10 anything, Bro, where I could call somebody, you</p> <p>11 know, to let them know that I did witness that?</p> <p>12 And he was like, yeah, this is my aunt's number,</p> <p>13 which was his -- Mr. Richardson's mother.</p> <p>14 So he gave me the information and I</p> <p>15 had spoke to my wife about it like, you know, this</p> <p>16 is what happened and what do you think about the</p> <p>17 situation, and she said, well, just think in terms</p> <p>18 of this: If it was your son, your brother, your</p> <p>19 nephew, your uncle, or a relative of yours, what</p> <p>20 would you want somebody else to do if they -- if</p> <p>21 the roles was reversed and somebody else was in</p> <p>22 your position? I said, I would want them to get</p> <p>23 in contact with us. She said, well, that's what</p> <p>24 you need to do, Babe.</p> <p>25 So I said, I got the number right</p>
<p style="text-align: center;">Page 26</p> <p>1 they had us sit at the tables, and the tables that</p> <p>2 they had us sit at was the tables that was close</p> <p>3 to my cell, and for everybody that said that they</p> <p>4 did see something to write a statement, and</p> <p>5 pertaining to it was a guy the cell maybe next</p> <p>6 door or two cells down from Mr. Richardson, he was</p> <p>7 going off. He was kind of like yelling like that</p> <p>8 ain't right, what y'all doing, type of stuff.</p> <p>9 I didn't -- I don't know if I wrote</p> <p>10 that in here. I don't remember if I wrote that in</p> <p>11 here or not. I don't think I did.</p> <p>12 Q. Yeah. I don't think you did.</p> <p>13 A. And then I don't think I wrote in</p> <p>14 here also that -- how I had ended up getting in</p> <p>15 contact with his parents, Mr. Richardson, his</p> <p>16 mother, who stayed in Atlanta, and it was because</p> <p>17 I was going through court at the time period, so I</p> <p>18 don't think -- I hadn't been to trial yet.</p> <p>19 So this would have been -- this would</p> <p>20 have been before trial. This occurred before my</p> <p>21 trial because I was still going to court, and I</p> <p>22 had went -- I had went down to the holding area,</p> <p>23 the transfer area I guess you would call it, and I</p> <p>24 was talking about, man, I seen -- man, some BS</p> <p>25 just happened up on my pod. What's that, man?</p>	<p style="text-align: center;">Page 28</p> <p>1 here, can you call for me on a three-way. So she</p> <p>2 called and I told his mother -- told her what I</p> <p>3 seen, and she was crying, and she said thank you,</p> <p>4 you know, thank you for telling me about this, you</p> <p>5 know, and I appreciate it. I said, yes, ma'am,</p> <p>6 you welcome.</p> <p>7 She said, well, if you ever need to</p> <p>8 talk to anybody or anything, you know, you can</p> <p>9 call me. I said, thank you very much, I said,</p> <p>10 because, yeah, I'm fighting a situation that is</p> <p>11 unjust to me. She said, well, I appreciate, you</p> <p>12 know, you calling me. I said, yes, ma'am, and I</p> <p>13 hung up.</p> <p>14 I haven't spoken to her since because</p> <p>15 I had her number on a piece of paper, a yellow</p> <p>16 tablet, and that thing is so raggedy and faded, I</p> <p>17 don't know -- and then I don't know if her number</p> <p>18 is still the same anyway, but --</p> <p>19 Q. Okay. And have you talked to anybody</p> <p>20 else in Mr. Richardson's family other than his</p> <p>21 mother that one time?</p> <p>22 A. No.</p> <p>23 Q. Okay. Now, when this was happening,</p> <p>24 you were in, it says, cell 434; is that correct,</p> <p>25 or can you not remember?</p>
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<p>1 A. I don't remember the cell number. 2 MR. HILL: Feel free to take a look 3 at your statement as you go. 4 BY MR. PREGON: 5 Q. Yeah. It's at the top right here 6 (indicating). 7 A. D pod. Okay. Cell 434. Okay. 8 Q. Now, you remember how that pod was 9 organized? 10 A. Yes, sir. 11 Q. And there's two floors to it? 12 A. Yes, sir. 13 Q. And you would have been on the first 14 floor, the bottom floor? 15 A. Yes, sir. 16 Q. And do you remember where the 17 staircase was to get up to that second level? 18 A. Yes, sir. 19 Q. Where was it? 20 A. You have -- 21 Q. Where was it in relation to your 22 cell? 23 A. You got two ways up, two stairways 24 up. 25 Q. Okay.</p>	<p>1 Mr. Richardson's cell was? 2 A. His was up to the left. His would 3 have been up to the left. 4 Q. Okay. So from your cell looking 5 straight out, standing from the inside looking 6 out, Mr. Richardson's cell was above you and to 7 the left? 8 A. Across. His is -- 9 Q. Across? 10 A. -- directly across and to the left. 11 The visiting room would have been up to the right, 12 but it's all like across from me. 13 Q. Okay. And so between where your cell 14 was and where Mr. Richardson's cell was, which is 15 a little above, were all the tables and things in 16 the middle of the pod? 17 A. Yes, sir. 18 Q. Okay. And were there also columns 19 (indicating) like holding -- that kind of ran 20 through there? 21 A. Yes. Yes, sir. 22 Q. Was your cell behind one of the 23 columns or was it next to one of the columns? 24 A. A column would have been to my -- out 25 and to my left and it has to be one to my right,</p>
<p style="text-align: center;">Page 30</p> <p>1 A. If I'm in my cell looking out my 2 window, it's a stairway over here (indicating), 3 which would be like -- it would be leading -- it's 4 almost right by -- it's by a cell. It's a 5 stairway by a cell, because when they took him out 6 his cell, they didn't have to go too far to bring 7 him down the stairs. 8 My -- okay. My cell window looked 9 out toward Fourth Street and toward the sheriff's 10 office across the street, and -- and his -- the 11 visiting room in the pod would have been right 12 here (indicating). 13 Q. And when you say right here, you've 14 got to describe it because she's trying to type it 15 down. 16 A. Well, I'm kind of like above my 17 cell -- 18 Q. So above and is it to the -- 19 A. -- and down some. 20 Q. -- right or to the left? 21 A. To the right. 22 Q. So above and to the right from your 23 cell is where the visiting area was? 24 A. Yeah. 25 Q. And then was that where</p>	<p style="text-align: center;">Page 32</p> <p>1 too, because they all right -- you know, they go 2 around. 3 The sink area and stuff is 4 immediately like in front of me but to my right. 5 The officers' desk is maybe like directly in front 6 of me but a little bit to the right, because 7 that's the way you go in and out. 8 His cell would be above the officers' 9 desk -- above the officers' desk and from my 10 angle, to my left. It would be up and to the 11 left. 12 Q. To the left. Okay. 13 A. Right, above the officers' desk. 14 Q. Okay. 15 A. Column to my left, column to my 16 right, but not like directly to my right, but in 17 front of me to my left and right. 18 Q. So roughly would it have been like 19 the opposite side of the pod where his cell was? 20 A. From me? 21 Q. From you. 22 A. Yes, sir. 23 Q. And do you have any idea how big a 24 room that is, how far away you would have been? 25 A. I can guesstimate it, a good</p>

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9 (Pages 30 to 33)

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1 guesstimation. Maybe -- maybe about ten yards,
 2 maybe about ten yards, and if I put it in feet --
 3 how many feet would you say this room is the long
 4 way?

5 **Q. I don't know.**

6 MR. HILL: Are we taking guesses?

7 THE WITNESS: Yeah.

8 MR. HILL: Like twelve, thirteen?

9 THE WITNESS: Okay. So we'll say
 10 his --

11 MR. HILL: That's my guess. I don't
 12 know if it means anything to you guys.

13 MR. PREGON: Yeah. It's hard to say
 14 because they don't have any -- well, but these
 15 tiles up here are hard to estimate from
 16 (indicating).

17 THE WITNESS: They supposed to be
 18 twelve inches. Tiles supposed to be twelve
 19 inches.

20 BY MR. PREGON:

21 **Q. So it's bigger than twelve by
 22 thirteen.**

23 A. Man, I don't think that's actually
 24 twelve. I think them are ten. I would just
 25 say -- we'll say maybe twenty to thirty feet.

1 A. It was way better. It just -- it
 2 just started bothering me, I would say, maybe
 3 within six months, and it was really mainly
 4 because I needed reading glasses.

5 **Q. You mean the last six months here?**

6 A. Yes, sir.

7 **Q. Okay. I got you.**

8 A. I've never worn glasses in my life.

9 **Q. So you wear them now, but you didn't
 10 wear them back then?**

11 A. No, I didn't.

12 **Q. Okay. When was the last time you
 13 would have gotten your eyes checked before May 19
 14 of 2012, do you remember?**

15 A. Maybe '09.

16 **Q. Okay.**

17 A. '09.

18 **Q. Where did you usually go to do that?**

19 A. What it was then was I was in Warren
 20 Correctional Institution, and they have health
 21 fairs. So they have them here, too. Whenever
 22 they have health fairs, I go to them.

23 They check your eyes, your blood,
 24 your -- your blood pressure, your sugar levels,
 25 your dental, hearing. They check all -- it's like

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1 **Q. Okay. And just so we're clear,
 2 that's a guess, and if somebody actually would
 3 have the dimensions for that, you're not going to
 4 argue with them?**

5 A. No.

6 **Q. I mean, they can't make the room
 7 shorter or longer.**

8 A. No, no, no, I wouldn't argue. And it
 9 might be more than that.

10 **Q. Okay.**

11 A. I'm quite sure it probably is. I'm
 12 quite sure it is. So I would -- if I'm dealing
 13 with my yardage and I'm looking at a football
 14 field, I will say maybe thirty. I'll put it at
 15 thirty yards. Easy, easy thirty yards.

16 **Q. Okay.**

17 A. So that's where I'm at.

18 **Q. And you're wearing glasses today.**

19 A. Yes, sir.

20 **Q. Is that prescription?**

21 A. Yes, sir.

22 **Q. And did you have the same
 23 prescription back in 2012?**

24 A. No, sir.

25 **Q. Was it better or worse back then?**

1 a thorough checkup when they have health fairs.

2 **Q. Okay. So back in 2009 at Warren
 3 Correctional when you did that, do you remember
 4 what your eyes tested at back then?**

5 A. Twenty/twenty.

6 **Q. Okay. So you had no problems?**

7 A. Even right now if I were to take
 8 these glasses off, you can set up anything that
 9 you -- you don't --

10 THE WITNESS: What's your name again,
 11 ma'am?

12 MS. STARTS: Carrie, Miss Starts.

13 THE WITNESS: Okay. Anything that
 14 Carrie can see, I can see. Do you have
 15 twenty/twenty?

16 MS. STARTS: No. I wear contacts.

17 MR. PREGON: Do you wear contacts?

18 MS. STARTS: I wear contacts.

19 BY MR. PREGON:

20 **Q. I was going to say. She got you on
 21 that.**

22 A. Yeah. But if your contacts is
 23 working good for you, perfectly, at a distance,
 24 what you can see at a distance, I can see. What
 25 you can see even up close, I can see.

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10 (Pages 34 to 37)

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<p>1 It's just that in the cells, the 2 lighting is poor, so when I'm using my lamp and 3 I'm trying to read something and it has small -- 4 when I say small, I mean smaller than this print 5 right here (indicating), smaller than that print, 6 it makes me have to squint where I'm messing with 7 the paper as far as moving it close and back up, 8 and then since I've got these glasses, pertaining 9 to that, I've noticed that it seems like stuff 10 come in HD, super clear.</p> <p>11 Q. It sharpened things up for you? 12 A. Yeah, I mean, really sharpened where 13 I don't notice it until with the glasses.</p> <p>14 Q. Okay. 15 A. And also because the glasses are 16 Versace and they're stylish, so I'm not going to 17 lie to you, I'm vain. How women wear shoes that 18 hurt they feet, I'm a little vain, so, you know.</p> <p>19 Q. Okay. So it sounds like you've 20 developed kind of a nearsightedness since you've 21 been in prison?</p> <p>22 A. And that could be beg to differ. It 23 can be different, because even, like I say, if I 24 take my glasses off, right now with Miss --</p> <p>25 THE WITNESS: What's your name again?</p>	<p>1 incarceration, time periods of being incarcerated, 2 I have a natural instinct in movement. 3 When I'm incarcerated, I can't sleep 4 when my door's open because somebody can come in 5 your cell, they can steal your stuff while you 6 sleep, they can bust you in the head, because 7 there's people that take medication that's not 8 mentally stable and they do weird stuff, so 9 whenever my door's open, I'm up. 10 Along with that, fights and stuff 11 occur in people's cells. They get in arguments 12 and disputes with they cellies. Also, when you 13 incarcerated, you go through boring times, so you 14 look for something to break up the monotony, and I 15 heard the outside-of-the-norm sound. 16 I would say for the most part it's 17 peaceful, and when it ain't peaceful, it's people 18 yelling, so it's almost like the constant yelling 19 becomes a -- it's like ambiance, ambient noises, 20 you know, to where it's a loud fan when it's loud 21 in the block that kills out the ambient noises. 22 When the people -- a bunch of people are talking, 23 it becomes what kills out the silence. 24 So at that time period, I think it 25 was count time or something because we was locked</p>
<p style="text-align: center;">Page 38</p> <p>1 MS. STARTS: Carrie. 2 THE WITNESS: -- Miss Carrie's 3 contacts, what she can see, I can see, it's just 4 that with the lighting in the cell -- so I extend 5 it even more because of my -- the vainness of me. 6 BY MR. PREGON: 7 Q. Okay. All right. So let's go back 8 to the incident. Your statement says you woke up 9 from your sleep by the sound of pounding feet on 10 the stairs. 11 So you were asleep when this all 12 started? 13 A. Yes, sir. 14 Q. And did you have a cellmate at the 15 time? 16 A. Yes, sir. 17 Q. Do you remember who that was? 18 A. I think his name was Country. That's 19 all I knew him by was -- I mean Cornbread, not 20 Country. 21 Q. Cornbread? 22 A. Cornbread, a big white guy. 23 Q. Okay. Okay. Now, when you woke up, 24 walk me through what happened. 25 A. With my negative, bad history of</p>	<p style="text-align: center;">Page 40</p> <p>1 down. Everybody was in their cells at this time 2 period. So it's quiet, then now I'm hearing 3 another sound that ain't of the quietness and it 4 ain't a regular sound. 5 So I hear the feet pounding, you 6 know, the heavy foot movement (indicating), and 7 I'm like, what is that, and I'm hearing the 8 walkie-talkies, so I hop out of my bunk and I go 9 to my cell and I look out. 10 I immediately see some type of 11 commotion going on on the second range, the range 12 above my range, and I look up and I see somebody 13 on the range. 14 I see an officer -- I see two 15 officers, but I see an officer at the head of 16 somebody and I see another officer toward the 17 lower torso of somebody, legs or lower back or 18 buttocks area, lower torso, and one officer has 19 his knee on the person on the ground's like upper 20 shoulder/neck area. 21 Another officer is on -- maybe 22 sitting on the person on the ground, the inmate, 23 on his legs and buttocks, the lower torso area, 24 and I see the officer toward the head of the 25 person, it's like he's balancing himself by</p>

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11 (Pages 38 to 41)

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1 holding on to the range on the inmate, and it's
 2 like he trying to do -- for lack of a better term
 3 at this time, keeping his balance (indicating),
 4 and there's --

5 **Q. Let me stop you for just a second.**
 6 **What you're describing, is this the first thing**
 7 **you saw when you looked out there?**

8 A. Yes, sir.

9 **Q. Okay. Go ahead.**

10 A. There's another officer standing up
 like against the wall. Now, I'm not a hundred
 percent sure, but I want to say I remember at one
 time period his -- his -- which would have been
 that inmate's bunkie, which would have been
 Richardson's bunkie, standing against the wall and
 then he's -- I'm -- I'm not all the way accurate
 with my timeline of events, but he's in his cell
 then, Richardson's bunkie's in his cell, and now
 I'm paying more attention.

20 Then I'm noticing the officer at the
 head of him is not just balancing himself.
 He's -- he's trying -- you can say he's trying to
 keep the inmate down, but I don't see the inmate
 struggling to get up.

25 I'm hearing, I can't breathe, then

1 other information from his bunkie and some of the
 2 other guys, you know, guys now talking about it.
 3 So I want to make sure I'm not mixing
 4 up my personal recollection of what I seen from
 5 what, you know, the conversation was.

6 **Q. And how are you doing that? How are**
 7 **you sure that you're not mixing up things that you**
 8 **heard versus what you saw?**

9 A. Because I'm trying to recollect upon
 10 my mind's eye, period, my mind's eye and what I
 seen, like what I -- remembering what I actually
 seen and then like time periods when we was out in
 the pod and like actual conversation.

14 Yeah, man, I told them
 15 da-da-da-da-da-da-da. You know, they ain't
 have to do that. He just had a seizure. Because
 I'm remembering now like conversation compared to
 I'm -- what I'm visualizing in silence is what I'm
 doing is what I'm visualizing in silence, you
 know, compared to like an actual conversation.

21 **Q. When you say visualizing in silence,**
 22 **I guess, what do you mean by that?**

23 A. It would be easy for me to show it,
 24 but I can't show it because that's about how our
 windows is in the pod (indicating), this door

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1 now it's other people in they doors and stuff,
 2 other inmates, they yelling stuff, and the officer
 3 at the lower torso, he -- he -- he's pushing down
 4 on Richardson's lower back and he's sitting on his
 5 legs.

6 At one time period, he's off of the
 lower back, from sitting on his legs to holding
 his legs, and the officer at the head, at the
 upper torso area, I'm seeing now that he's using
 the -- the range, the bars, the banisters, as like
 leverage to put pressure down on Richardson's neck
 area.

13 And other officers -- a white shirt
 came into -- what would be a lieutenant or a
 sergeant or a captain came into the pod, some
 other officers came into the pod and a nurse came
 in, and I heard his bunkie yell out the door,
 he -- he just had a seizure, he just had a
 seizure, why y'all doing that, he just had a
 seizure, he just had a seizure.

21 And I'm trying to make sure I don't
 mix up anything that I'm saying with stuff that I
 heard from his bunkie later, stuff that I heard
 from the guy that was next door or two cells down
 from me from what I actually seen, because I got

1 that's in front of us to enter into this room.

2 **Q. Okay.**
 3 A. I'm just like you can say like
 daydreaming, or how would you say this? Lack of a
 better term, total recall, and in the sense of
 remembering a childhood memory.

7 I remember when I was, say, six years
 8 old and I got a drum set and my brother stabbed it
 9 with a fork, and I don't know if you remember, the
 10 little kit drum sets back then, the drum is paper
 11 basically, and I remember my brother stabbed it
 12 with a fork, messed up my drum set, and about me
 13 remembering that compared to what she -- what the
 14 stenographer lady said to me earlier, the
 15 questions that she asked me, the difference of the
 16 recall, my personal recall compared to what she
 17 said to me.

18 **Q. Okay. And you agree with me, I mean,**
 19 **we're talking about something that happened four**
 20 **years ago?**

21 A. Four-plus.

22 **Q. Four-plus, and it sounds like you**
 23 **recognize that it's certainly possible that your**
 24 **memories could blend with stuff you've heard, so**
 25 **you're trying hard to avoid that?**

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12 (Pages 42 to 45)

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<p>1 A. Yes, sir.</p> <p>2 Q. Okay. But you realize that it's</p> <p>3 possible that that might happen?</p> <p>4 A. Yes, it's possible.</p> <p>5 Q. Okay. And are you saying that you</p> <p>6 heard his cellmate saying or yelling that he just</p> <p>7 had a seizure? You remember that happening?</p> <p>8 A. Yes, sir, because I didn't know about</p> <p>9 the -- I didn't know about the seizure. I didn't</p> <p>10 witness the seizure or anything.</p> <p>11 Q. Okay.</p> <p>12 A. And -- but -- but something -- I --</p> <p>13 what I want to say, it didn't start -- it didn't</p> <p>14 start right there with him just being on the range</p> <p>15 because I want to say I recall his door being open</p> <p>16 and him sitting on the floor --</p> <p>17 Q. Okay.</p> <p>18 A. -- him sitting on the floor and them</p> <p>19 dragging him out of the cell to the range, you</p> <p>20 know, that --</p> <p>21 Q. Okay.</p> <p>22 A. But once again, that part right</p> <p>23 there, that key part of him sitting on the floor</p> <p>24 in his cell and the removal of him from his cell</p> <p>25 to the range, now, that part is a part that can be</p>	<p>1 shut?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Because the cell itself is made of</p> <p>4 concrete, right?</p> <p>5 A. Yes, sir. The door, heavy steel.</p> <p>6 Q. Okay. Did you have to put your ear</p> <p>7 to the door or to the window to hear outside?</p> <p>8 A. Well, you can hear more by doing</p> <p>9 that, but I was all the way up on the glass</p> <p>10 because I was all the way up on the door because I</p> <p>11 was trying to see what was going on, and the</p> <p>12 crack, the seal, the frame of the door is right</p> <p>13 there by the glass, so my ear is basically already</p> <p>14 at the frame of the door, at the crack of the</p> <p>15 door.</p> <p>16 Q. How big a guy was Cornbread?</p> <p>17 A. Probably about anywhere from --</p> <p>18 because he was taller than me -- anywhere from</p> <p>19 five ten to six two and maybe approximately two</p> <p>20 hundred and fifty pounds, anywhere from --</p> <p>21 Q. Bigger guy?</p> <p>22 A. Very, yeah, bigger.</p> <p>23 Q. Were you at the window that whole</p> <p>24 time or did you and Cornbread switch off?</p> <p>25 A. No. I was at the window. He was --</p>
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13 (Pages 46 to 49)

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<p>1 A. The visiting -- that's the visiting 2 platform area is up there, you know, and I'm quite 3 sure I would have.</p> <p>4 Q. Do you remember how wide the range or 5 the catwalk was?</p> <p>6 A. Yes, sir, I could tell you that. I 7 would say it's --</p> <p>8 Q. Could you wake side-by-side with 9 Cornbread walking up there?</p> <p>10 A. Yeah.</p> <p>11 Q. Okay. So it's wide enough for two 12 people?</p> <p>13 A. More than two people.</p> <p>14 Q. Okay. And Mr. Richardson, he was a 15 bigger guy, wasn't he, or did you ever see him 16 before that?</p> <p>17 A. I -- I -- no, I never seen him before 18 that. I seen him at that time period and I paid 19 attention to the bag when they dragged him down 20 the stairs.</p> <p>21 I was able, you know, to be able to 22 see certain things, and my -- I would guesstimate 23 that Mr. Richardson was at least six foot, I would 24 say, and I would say that he weighed two 25 hundred-plus.</p>	<p>1 the officers was a tall officer, and either him -- 2 he either has a father or a -- or a son -- he got 3 a relative that works there also.</p> <p>4 That's what I recall, because it was 5 expressions about him, you know, that he -- this 6 is not -- he done -- he done put his hands on 7 people before, inmates.</p> <p>8 Q. The tall officer?</p> <p>9 A. The taller, the big one.</p> <p>10 Q. Did you know his name or did you know 11 him to be CO Mayes? Does that sound familiar?</p> <p>12 A. Yeah. Mayes sounds familiar, yeah.</p> <p>13 Q. And you said he was known to put his 14 hands on people?</p> <p>15 A. But I don't know if that's him, if 16 he's Mayes.</p> <p>17 Q. Okay. I understand that. You said 18 that you had heard that Mayes had put his hands on 19 inmates?</p> <p>20 A. Before, priorly?</p> <p>21 Q. Yeah.</p> <p>22 A. Yeah, that he's known for beating up 23 inmates.</p> <p>24 Q. Who did you hear that from? Do you 25 remember anybody specifically?</p>
<p style="text-align: center;">Page 50</p> <p>1 Q. And he's been described as six foot, 2 three hundred, roughly, somewhere around there.</p> <p>3 A. And he was dark -- okay.</p> <p>4 Q. You're not going to argue with that?</p> <p>5 A. Three hundred?</p> <p>6 Q. That's what he's been described as.</p> <p>7 You don't think he was that big?</p> <p>8 A. No.</p> <p>9 Q. Okay. And I didn't mean to interrupt 10 you. You started to say -- you said he was dark?</p> <p>11 A. Dark-completed. I do recall that.</p> <p>12 Q. Okay.</p> <p>13 A. He was a darker-completed</p> <p>14 African-American.</p> <p>15 Q. Okay.</p> <p>16 A. I can't remember too much about his</p> <p>17 hair or anything like that because it's been so</p> <p>18 long ago, and I only seen him at that time period.</p> <p>19 It's not like he was an image that just stuck in</p> <p>20 my mind.</p> <p>21 The situation -- the image that</p> <p>22 sticks in my mind in he -- his personal appearance</p> <p>23 doesn't stick in my mind. The image that sticks</p> <p>24 in my mind is the -- the knee on the neck and the</p> <p>25 bracing on the range, and I remember that one of</p>	<p style="text-align: center;">Page 52</p> <p>1 A. No, but let me think for a second. I 2 need to recollect who was all in that pod with me 3 at that time period, which inmates, because I know 4 a lot of people.</p> <p>5 I know a lot of people in Dayton, 6 with this -- with my history, and then outside of 7 that, on the streets I'm fairly well-known, and I 8 know a lot of people because of skating, 9 roller-skating, the skating ring that I used to go 10 to as a child.</p> <p>11 It was like, if you can't fight, 12 don't go to that skating rink. If you can't 13 skate, don't get on that skating floor, and like 14 the popular people of the African-American 15 community went to this skating rink, and popular 16 in positive things as well as negative things, 17 so -- and in the county jail, you're not having a 18 bunch of popular, positive people in the county 19 jail, so, you know -- and with my history, you 20 know, I'm not, you know -- but anyway, so I would 21 need to recollect which inmates was -- who was all 22 on my pod.</p> <p>23 I can't remember nobody that was on 24 my pod except my bunkie, and I didn't know 25 Mr. Richardson, so my bunkie is really the only</p>

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<p>1 person I can remember, and the only reason I can 2 remember him is because his girlfriend at the time 3 period was a friend of mine's ex-girlfriend, and 4 at one time period when I was in the county, they 5 had kept my dog, a dog of mine that I had, and she 6 had took pictures with my dog, several pictures, 7 and I have a picture of her and my dog in my 8 property back in my pod right now, and I think her 9 name was Stephanie.</p> <p>10 Q. Stephanie Strickland? Does that 11 sound right?</p> <p>12 A. I don't remember her last name.</p> <p>13 Q. Okay.</p> <p>14 A. That's -- what was -- what do you 15 know about her?</p> <p>16 Q. Oh, we talked to Stephanie yesterday.</p> <p>17 A. Why? Was she -- was that my bunkie's 18 girlfriend?</p> <p>19 Q. Oh, no, no. Your bunkie. No, no, 20 no. Never mind. I thought you were talking about 21 Mr. Richardson.</p> <p>22 A. No, no, no. My bunkie, Cornbread.</p> <p>23 Q. No. So I don't know who Cornbread's 24 Stephanie is.</p> <p>25 A. I was about to say, wow, what does</p>	<p>1 lack of a better term, as if I was lying about 2 this statement. I don't want to be remembering a 3 lie.</p> <p>4 So that's why I haven't -- I don't 5 know if you've been watching me during this 6 interview. I haven't been looking at this and I 7 don't want to look at this.</p> <p>8 Really, I really don't want to look 9 at this, but it might -- I don't know if it will 10 be better to look at it so we -- even though this 11 is a fact (indicating) and we want to deal with 12 the facts --</p> <p>13 MR. HILL: And you're referring to 14 your statement?</p> <p>15 THE WITNESS: Yes, sir.</p> <p>16 MR. HILL: Exhibit A?</p> <p>17 THE WITNESS: Yes. My statement is a 18 fact, and we want to deal with facts, but at the 19 same time, I don't want to be appearing to where 20 it's as if my statement was a lie and I'm having 21 to remember a lie by keep looking at it. That's 22 why I haven't -- I don't know if you noticed, but 23 I haven't been looking at my statement.</p> <p>24 BY MR. PREGON:</p> <p>25 Q. Let me ask you this, Mr. Wayne: Were</p>
<p style="text-align: center;">Page 54</p> <p>1 this have to do --</p> <p>2 Q. No, no, no, no.</p> <p>3 A. And I was kind of surprised, kind of 4 happily surprised, but yeah. She's a Caucasian 5 female and she used to mess with a friend of mine, 6 ex -- well, not my ex. He's still my friend. 7 She's his ex, and she was messing with Cornbread 8 at the time period.</p> <p>9 Q. Okay. Did you know CO Stumpff?</p> <p>10 A. I can remember his face. Did he have 11 dark hair?</p> <p>12 Q. Yeah.</p> <p>13 A. Yeah. If you were to ask me to say 14 his name, I wouldn't have remembered it, but I 15 remember now.</p> <p>16 Q. Okay.</p> <p>17 MR. HILL: And again, feel free to 18 look at your statement.</p> <p>19 BY MR. PREGON:</p> <p>20 Q. Yeah. You've written that down in 21 your statement. You identified Stumpff and Mayes. 22 That's why I asked you about those two.</p> <p>23 A. I really -- I'm not going to lie to 24 you. Like I told him, I really don't want to look 25 at this because I don't want to appear to be, for</p>	<p style="text-align: center;">Page 56</p> <p>1 you being honest when you wrote this statement 2 out?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Okay.</p> <p>5 A. And mind you, there are some little 6 side details to this or in-depth details to this 7 that I might have forgot from then and some things 8 that I might have remembered that I didn't put on 9 here because I was writing at a fast pace or just 10 trying to get to certain points or something like 11 that, but there are side facts to this nature that 12 I may have remembered and some facts that I may 13 have remembered that I didn't put on there.</p> <p>14 Q. So what you're telling me is the 15 whole story that you remember may not be in your 16 written statement?</p> <p>17 A. All the intricate details may not be 18 in there.</p> <p>19 Q. Okay. And you wrote down in your 20 written statement you thought there were seven 21 officers and two supervisor officers there.</p> <p>22 A. Uh-hum.</p> <p>23 Q. So a total of nine officers?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Okay.</p>

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<p>1 A. And this is the thing, I don't know 2 if it was all at one time -- at this time my 3 recollection, I don't know if it was all at one 4 time or officers coming and going, you know.</p> <p>5 Q. Okay. And were you familiar with -- 6 had you been there long enough to figure out when 7 the shift changes were?</p> <p>8 A. I know that, but I don't recollect it 9 specifically now.</p> <p>10 Q. Okay.</p> <p>11 A. But it might have been -- shift 12 change might have been, we'll say, anywhere from 13 2:00 to maybe 3:30.</p> <p>14 Q. And there's been testimony in this 15 case that it was about 3:00, it was shift change, 16 so there were people coming in and out from that.</p> <p>17 A. Yes, sir.</p> <p>18 Q. That's certainly possible with what 19 you're saying?</p> <p>20 A. It fits perfectly to this timeline 21 that I just presented.</p> <p>22 Q. You said that they had him on the 23 ground, but earlier you said you kind of 24 remembered him already being on the ground when 25 the officers got there, but you don't know for</p>	<p>1 out the window. 2 MR. PREGON: That's what I was going 3 to say. 4 BY MR. PREGON: 5 Q. From your vantage point, everything 6 that you're seeing, that's what you're saying? 7 A. Yes, from my vantage point of my cell 8 of 434, the lower range, I would be looking up and 9 across in front of me (indicating), and like I 10 say, the bigger officer was to my right, which 11 would be to his head, Richardson's head, and 12 Richardson would be up under that officer, and he 13 would also be up under another officer at his 14 feet, but it was another officer as well -- it was 15 another officer because I recall from -- from what 16 I seen, not from somebody telling me, also I 17 recall a time period when Stumpff was standing up 18 and his back was against the wall between 19 Richardson's cell and the other cell to the right 20 and there was another officer holding Richardson's 21 legs down as well -- 22 Q. Okay. 23 A. -- where they, you know -- for lack 24 of a better term, took shifts or took turns, you 25 know. Maybe somebody's back was bothering them</p>
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<p>1 sure if that's what you remember or that's what 2 you were told by other inmates, right?</p> <p>3 A. What I -- the questionable memory is 4 pertaining to him being in his cell sitting on the 5 floor, his back against the wall. The bunk would 6 be like this, the toilet would be like this, the 7 sink would be all to the right (indicating). The 8 sink and toilet would be to the right. 9 The bunk would be straight ahead 10 going from left to right, and his back would have 11 been against the wall on the left back toward the 12 bunk area. His bunkie would have been sitting on 13 the bunk toward the middle right area, but what I 14 specifically remember is him being out of the cell 15 on the ground close toward the lip of the range 16 toward the -- toward the banister area, the rail, 17 and his head was facing the steps to the right. 18 His head would be facing the right. 19 The officers' desk would be below him 20 to the right. Coming in and going out of the pod 21 would be to the right. That entryway, the doorway 22 down there, would be to the right. His feet would 23 be to the left. 24 MR. HILL: Maybe just to stop you, it 25 looks like you're indicating when you're looking</p>	<p>1 down on they knees for so long, I got to get up 2 from down here. Hold him down, you know. 3 Q. Do you remember how long this whole 4 event lasted?</p> <p>5 A. Too long. 6 Q. Okay. But do you remember, I mean, 7 specifically?</p> <p>8 A. We'll say anywhere from -- anywhere 9 from ten minutes to a half an hour. 10 Q. So somewhere between ten and thirty 11 minutes?</p> <p>12 A. Yes, sir. 13 Q. And at some point in time, did you 14 see a corrections officer bringing the restraint 15 chair in?</p> <p>16 Do you know what a restraint chair 17 it?</p> <p>18 A. Yes, I do. 19 Q. At some point, did you see that 20 coming into the pod?</p> <p>21 A. I'm trying to recollect it upon 22 myself and not be coached, you know. 23 Q. It's not in your statement.</p> <p>24 A. It's a possibility that it could have 25 been brought in, and if it was brought in, it</p>

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<p>1 wouldn't have been brought no further than the 2 officers' -- right there behind the officers' desk 3 or maybe to the bottom of the stairs if it was 4 brought in, but they didn't use it on him.</p> <p>5 Q. Did you ever see the restraint chair 6 actually going up the stairs, somebody carrying it 7 up the stairs?</p> <p>8 A. No, sir.</p> <p>9 Q. Okay. And that would have been -- 10 those stairs would have been right in front of 11 you?</p> <p>12 A. Across from me.</p> <p>13 Q. Well, across from you?</p> <p>14 A. Yeah, straight in my view.</p> <p>15 Q. Okay.</p> <p>16 A. Right.</p> <p>17 Q. Okay. Did you see Officer Stumpff 18 bending Mr. Richardson's hands, cuffed wrists, 19 back?</p> <p>20 A. Yes, sir.</p> <p>21 Q. That's what you wrote down.</p> <p>22 A. Yes, sir.</p> <p>23 Q. What did you mean by that?</p> <p>24 A. So if Richardson's hands was behind 25 his back and they were cuffed, his palms would be</p>	<p>1 and --</p> <p>2 Q. Well, and so when you say that his 3 hands were -- the natural position, they should 4 have just been just completely flat and pointing, 5 you said, south, like toward the ground, to his 6 toes?</p> <p>7 A. Yes, sir. Yes, sir.</p> <p>8 Q. So at some point, you saw his fingers 9 pointing toward the -- I guess, toward the 10 ceiling?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Okay.</p> <p>13 A. But it would be going not back this 14 way (indicating) but back this way (indicating) 15 and then being bent up.</p> <p>16 Q. Right, because it's behind.</p> <p>17 A. Right.</p> <p>18 Q. Right. So --</p> <p>19 A. And instead of his arms being 20 straight, they would be -- would be pushed in a 21 bowed position, bowing position.</p> <p>22 Q. Could you see from your vantage point 23 if Mr. Richardson was flat on his belly or if he 24 was pushed or rolled over onto his side?</p> <p>25 A. He was on his belly at first. At</p>
<p style="text-align: center;">Page 62</p> <p>1 pointing faced up. His fingers would be pointing 2 toward his toes.</p> <p>3 In a natural position of a person's 4 hands being cuffed and restrained, his fingers 5 would be pointing south of his head. Stumpff bent 6 his hands, his fingers and hands, from south to 7 north, and at one -- at a time period, if 8 Richardson is laying on his stomach and they bent 9 his hands up, at one time period, his hands would 10 be -- fingertips and stuff would be pointing up 11 toward the ceiling, and then besides that, they 12 were bent even further than that toward 13 Richardson's upper torso.</p> <p>14 It's like if you're handcuffed and an 15 officer's trying to guide you and he might be a 16 little fearful, he might bend your hands up a 17 little bit.</p> <p>18 If you're mouthing off and you're 19 giving him a hard time, there's a way to apply 20 pressure that will cause you pain to maybe coax 21 you into shutting your mouth or stop any resisting 22 that you would be doing.</p> <p>23 So I would say that when I say 24 bending, his hands would have been being forced 25 into an uncomfortable and an unnatural position</p>	<p style="text-align: center;">Page 64</p> <p>1 some time period, they did try to put him on his 2 side. This was after the time period when they -- 3 the medical department came and was trying to 4 figure out stuff and all of that.</p> <p>5 Q. So you did see him on his side during 6 that time?</p> <p>7 A. No, not during the initiative time.</p> <p>8 Q. Not during the initial time, but 9 after -- initially you said he was on his belly. 10 Then you saw a period of time where they were 11 pushing him onto his side?</p> <p>12 A. Yeah, trying to -- I think it was 13 during the resuscitation time and when they was 14 trying to maybe -- less restrictive to be able to 15 breathe, you know, to -- you would say like if a 16 person's breathing pathway is being restricted, 17 they would be compacted, okay, upon -- and then 18 upon being put on his side, being able to be put 19 him in a less restrictive breathing position.</p> <p>20 This was when the -- this was 21 after -- they tried to give him a shot or 22 something. They tried to give him a shot, and I 23 don't know if it didn't penetrate or something, 24 and I'm going to say also, what I can recollect, 25 that it was a -- like a chaotic -- chaotic type of</p>

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<p>1 situation where it was too much going on, where, 2 say, the -- the medical department and the 3 security department, you can say they was like in 4 each other's way to whereas when the medical 5 people was trying to perform medical duties, the 6 officers were still there in the way restraining 7 when restraint wasn't needed, because all the time 8 period that he was out on the range, he wasn't 9 tussling, he wasn't wrestling, he wasn't doing too 10 much of nothing.</p> <p>11 The closest thing you can say that he 12 did do was when he was being restrained, maybe 13 tried to turn his head to get into a position 14 where he can breathe, moving his neck to be able 15 to breathe.</p> <p>Q. Did you see him thrashing at all or bucking, maybe his torso moving or anything like that?</p> <p>And I understand you were a distance away from him and there was people standing around up there.</p> <p>A. No.</p> <p>Q. Would you say you had a better view of the corrections officers and the medical staff or of Mr. Richardson?</p>	<p>1 body laying flat and his head is up at this end 2 (indicating) and he's on -- this is his stomach on 3 the table (indicating), I could maybe not see 4 about this much of his body (indicating).</p> <p>Q. So the lower part of his body, which was facing --</p> <p>A. The ground.</p> <p>Q. -- which was on the ground was what you couldn't see?</p> <p>A. Right.</p> <p>Q. Okay.</p> <p>A. So it's like with my hand being here or this part of my hand, this lower part right here (indicating), say that wasn't visible because of the lip of the range and being that he's up, but I can see more than three-quarters of his body.</p> <p>Q. And did any of the medical stuff or corrections officers who were up there around him, did any of them obscure your vision of him?</p> <p>A. The big guy, you can say he obscured maybe some of his head or face area at times, because I don't recall his face. I don't recall Mr. Richardson's face, but I -- but at one point I do because I want to say they wiped his face off</p>
<p style="text-align: center;">Page 66</p> <p>1 A. All the above, because Mr. Richardson 2 is big enough to whereas say this table is the 3 range, the outer range (indicating), and the thing 4 of it is, is that he's all the way -- he's all the 5 way to the end of the range, and he's a big 6 fellow, so say I might not be able to see -- with 7 him laying on his stomach, I might not be able to 8 see, say, five to ten percent out of a hundred 9 percent of his body vertically on his body from 10 his, say -- the lower part that's on the range, 11 his pubic area is -- his pubic area and his chest 12 area is on the range -- on the -- the ground, and 13 we talking about from his chest to his back we 14 going to consider vertical, and upon that, I might 15 be out of view of seeing, say, five percent. Out 16 of a hundred percent of his body, I might not be 17 able to see five to ten percent of it.</p> <p>Q. Of his upper body or total body?</p> <p>A. I'm talking about with me using my badge and with my badge, we have this is his head up at this -- at the top end (indicating) and this is his legs at the bottom end (indicating), and we talking about vertical here from the bottom of my badge to the top of my badge, not the long way, and we talking about say if this is his -- his</p>	<p style="text-align: center;">Page 68</p> <p>1 or something. They wiped his face off or 2 something, you know. 3 But some of both of the officers at 4 time periods would be obscuring certain parts of 5 his body, and it would have to be, say, like the 6 parts of their body that was on his body.</p> <p>Q. So there were times based on the movement that you couldn't see all of his body. Is that fair for me to say?</p> <p>A. Yes, sir, but I could see -- I could see -- I could always see the middle of his back, his upper back, some time periods not his feet, some time periods his feet, because like I say, they switched from one officer to another officer, and that was primarily on the lower part of his body, but at a time period, I want to say somebody did switch with the officer at the top, the big officer, but that might have been when they was trying to give him a shot or when they was putting him on the thing that they took him down the stairs in, and I don't remember if that was a sheet or a mattress or a blanket or what it was that they took him down the stairs in, but I recall a part of his body was like banging off the stairs.</p>

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<p>1 I don't know if it was his head. 2 Right now I can't recall if it was his head, but I 3 remember seeing something. It could have been his 4 arm, could have been his head, could have been his 5 foot, you know. Something was banging off the 6 stairs as they was taking him down the stairs.</p> <p>Q. Well, let me ask you this: From your vantage point -- you were a distance away. We talked about that.</p> <p>10 A. Yes, sir.</p> <p>Q. And you were also below.</p> <p>12 A. Yes.</p> <p>Q. From your vantage point, do you think you could tell -- honestly, could you tell the difference between them hovering over him versus them sitting on him?</p> <p>17 A. I could.</p> <p>Q. Why do you say that?</p> <p>19 A. Because when they switched position, 20 I recall there was another officer besides the big 21 guy and the dude -- the guy with the dark hair. I 22 want to say it might have been a bald-headed 23 officer, but I'm not a hundred percent sure, and 24 he was shorter and looked in better condition, 25 that switched at the lower part.</p>	<p>1 angles that you'll use on that bar (indicating), 2 that range, from if I was just trying to hold him 3 down, and I can tell now that he's not being 4 defiant or rebellious or struggling or resisting 5 where I can just apply a certain amount of 6 pressure just to keep -- that I know I got him in 7 place and if he starts doing something that I 8 don't want him to do, I'm able to reapply that 9 pressure compared to I'm just here, you know, like 10 okay, I got you. This is me, I have you 11 restrained (indicating).</p> <p>12 MR. HILL: You might want to just 13 kind of explain what you're demonstrating to the 14 court reporter.</p> <p>15 THE WITNESS: Okay. Right. If I 16 have my hands on the table and I got my hands 17 there just to say, well, if this table getting 18 ready to fall or say the leg getting ready to fall 19 off and I'm preparing to catch it in case it does 20 to a constant pressure on the table (indicating) 21 to where it's -- I got my hands here just in case 22 and then if the table gets ready to fall, I can 23 apply pressure whereas my fingers will hump a 24 little bit with me applying pressure that I'm 25 seeing, and it's not just flat, it's a little hump</p>
<p style="text-align: center;">Page 70</p> <p>1 And I could see the big officer -- 2 it's like you can tell when a person is straining 3 doing something and when they're more relaxed, and 4 it's like, say if you -- I used to lift weights a 5 lot. I used to power lift. I can tell the 6 difference from when I have the weight bar on my 7 chest, the long bar, forty-five pound bar, where 8 if I took it out of the rack and took it down and 9 when I'm kind of resting it on my chest with no 10 strain to when I'm pushing it with strain 11 (indicating), and you can tell by -- I don't know 12 if that -- I don't think that's called cartilage, 13 but you can tell muscle flexing. You can tell 14 when you see the indentation or the outline or 15 definition. When a person's muscle is flexing, 16 you can see that.</p> <p>17 You can see it in a person's face, 18 the strain or tension in a body compared to when 19 it's relaxed, and when the one officer was at his 20 head, you know, and he did like some bounce -- it 21 was a little bounce to it where it's like he -- he 22 was -- he was on his neck and head area, and I'm 23 able to tell by the angle of the body and the 24 grasp that it would take for you to have to keep 25 your balance to applying pressure as far as the</p>	<p>1 to it, and you can see the strain in my hand, the 2 difference, the two differences. I could tell 3 when the officer was just applying pressure.</p> <p>4 BY MR. PREGON:</p> <p>Q. You could see them flexing and you could see their hands from where you were at?</p> <p>7 A. Not the hands, but in the arms, I can 8 see the muscle, the con -- what's that word -- the 9 contorting of the muscles in his arms. You could 10 see the -- like when I'm flexing my arm right here 11 (indicating), you can see my -- this muscle 12 flexion compared to when it's relaxed 13 (indicating), you know.</p> <p>14 And then also, in the big guy's face, 15 I could see it in his face because he was red in 16 the face and he was sweating and he had like a 17 grimace on his face like he was straining to do 18 something.</p> <p>Q. Okay. Mr. Wayne, something else you did when you were talking about putting pressure, you were describing your hands, but I also saw you kind of lean forward, too, right?</p> <p>23 A. Yes, sir.</p> <p>Q. So if you want to put pressure on something, you're going to lean into it a little</p>
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<p>1 bit, aren't you?</p> <p>2 A. You can, yes, sir.</p> <p>3 Q. Okay.</p> <p>4 (Thereupon, an off-the-record</p> <p>5 discussion was had.)</p> <p>6 BY MR. PREGON:</p> <p>7 Q. At some point, you saw the medical</p> <p>8 staff come in?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And I guess, let's distinguish</p> <p>11 between -- because there was paramedic staff that</p> <p>12 came in later --</p> <p>13 A. From the street paramedics?</p> <p>14 Q. Right.</p> <p>15 A. I don't recall them.</p> <p>16 Q. You don't recall them, but you saw</p> <p>17 like the emergency --</p> <p>18 A. Was it a male?</p> <p>19 Q. I think it would be from the fire</p> <p>20 department. They would have come in, gone up the</p> <p>21 stairs.</p> <p>22 A. Well, do you recall their</p> <p>23 nationality? Was they both Caucasian or was one</p> <p>24 Caucasian and one black?</p> <p>25 Q. I don't know. Off the top of my</p>	<p>1 did that, that was the nursing staff? Or could</p> <p>2 you tell the difference?</p> <p>3 A. I know I would be able to tell the</p> <p>4 difference, but it's just about the recollecting</p> <p>5 of it. I don't -- I don't recall no officers</p> <p>6 trying to do that, but I don't -- I'm not a</p> <p>7 hundred percent sure.</p> <p>8 MR. HILL: And again, just to speed</p> <p>9 things up a little bit, you might want to look at</p> <p>10 what you wrote down in your statement that day.</p> <p>11 THE WITNESS: Okay. All right. You</p> <p>12 know where that area might be at?</p> <p>13 BY MR. PREGON:</p> <p>14 Q. Well --</p> <p>15 MR. HILL: I'm not trying to -- just</p> <p>16 read the statement. I would read it. Okay? And</p> <p>17 then we can -- I think we'll move a little bit</p> <p>18 quicker. I'm not -- if I'm interfering, let me</p> <p>19 know.</p> <p>20 MR. PREGON: I'll let you know, but I</p> <p>21 mean, I do kind of want to move things forward</p> <p>22 here, but I also want to give him a chance, I</p> <p>23 mean, if he wants to remember.</p> <p>24 MR. HILL: Okay.</p> <p>25 (Pause in proceedings.)</p>
<p style="text-align: center;">Page 74</p> <p>1 head, I can't remember.</p> <p>2 THE WITNESS: Do you recall, Miss? I</p> <p>3 ain't going to remember your name.</p> <p>4 MR. HILL: He just wants to know what</p> <p>5 you remember.</p> <p>6 MR. PREGON: Yes.</p> <p>7 MR. HILL: We've got a video of all</p> <p>8 this.</p> <p>9 BY MR. PREGON:</p> <p>10 Q. Yeah. I just want to make sure you</p> <p>11 can distinguish that there was nursing staff that</p> <p>12 came in first and then the paramedics came in</p> <p>13 later.</p> <p>14 A. Uh-hum.</p> <p>15 Q. But you said you don't remember the</p> <p>16 paramedics coming in?</p> <p>17 A. I recall either two or three nurses.</p> <p>18 I think it was three. I think it was one nurse</p> <p>19 there already and then two more came in and</p> <p>20 then -- but it was like a -- maybe in that area,</p> <p>21 it was a constant -- like a two -- two of them.</p> <p>22 Q. They're the ones that tried to</p> <p>23 administer the shots, right?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Okay. That wasn't the officers that</p>	<p>1 THE WITNESS: Yeah.</p> <p>2 BY MR. PREGON:</p> <p>3 Q. Just let me know after you read</p> <p>4 through that.</p> <p>5 (Pause in proceedings.)</p> <p>6 THE WITNESS: Okay.</p> <p>7 BY MR. PREGON:</p> <p>8 Q. Okay. Now, from your written</p> <p>9 statement, I mean, you've identified CO Mayes as</p> <p>10 the one you kind of write on here a couple times</p> <p>11 that he put his knees on the inmate's head, neck,</p> <p>12 and shoulders.</p> <p>13 Do you remember anybody else</p> <p>14 besides -- and I understand there was some</p> <p>15 confusion as to whether or not you remember which</p> <p>16 one Mayes was. You know Mayes was the big one.</p> <p>17 A. Okay.</p> <p>18 Q. Did you see anybody else besides that</p> <p>19 one CO you said put his knees on the inmate's</p> <p>20 head, neck, and shoulders?</p> <p>21 A. Uh-hum.</p> <p>22 Q. Is that the only one you saw do that?</p> <p>23 A. No, because like I said, they</p> <p>24 switched up, and it would have to have been</p> <p>25 Stumpff -- Stumpff that one time period.</p>

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20 (Pages 74 to 77)

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<p>1 MR. HILL: I think that is written on 2 there, too, Jamey. Second-to-last line. Or at 3 least that's the way I read it. 4 BY MR. PREGON: 5 Q. As I read this last line, it says, 6 then Officer Mayes moved the nurse and put his 7 knees on -- on the inmate's head, neck, and 8 shoulders. Officer Stumpff. Then Mayes got back 9 on him. Both used the rail like leverage to apply 10 pressure. 11 Do you see where I read that? 12 A. Yes, sir. Yes, sir. 13 Q. So like Mr. Hill said, is it CO 14 Stumpff, then Mayes that you saw -- 15 A. Yes, sir. 16 Q. -- or is that supposed to be just 17 Mayes? 18 A. No. Stumpff, too. 19 Q. Had you had any encounters with 20 either CO Stumpff and CO Mayes before this 21 happened? 22 A. No, sir. And I want to say that the 23 big one I liked. I want to say I liked him 24 because I want to -- see, with the amount of time 25 that I've done incarcerated, I don't look at</p>	<p>1 really soft, and then they use the badge and the 2 gun and the whole group of them and they -- they 3 portray themselves as tough and they will talk 4 to -- say like -- say if I were to say my opinion, 5 because I know my capabilities, I boxed Golden 6 Gloves, I wrestled All-State, I've coached 7 wrestling -- and that's another thing with my 8 case. I can't do that kind of stuff. I can't be 9 around kids. People be talking about you're a 10 rapist. 11 But anyway, I've coached wrestling 12 and et cetera, and when I was a young guy, 13 thirteen years old, I've been in a gang, you know, 14 and I've been in multiple fights, and I lost very, 15 very, very few. I've took martial arts, all that. 16 So the average officer, police 17 officer, deputy sheriff, correction officer, they 18 ain't got a chance with me, but they would talk 19 crazy to me because lack of better term, they're a 20 gang as well and it's just that their gang is 21 bigger and it's sanctioned by people that created 22 the rules. 23 So anyway, there are officers that I 24 look at and I know that, one, he conducts himself 25 with me as a man. He don't see me as</p>
<p style="text-align: center;">Page 78</p>	<p style="text-align: center;">Page 80</p>
<p>1 everybody as a whole. I don't look at people in a 2 bad light to where -- whereas officers on the 3 street, there's plenty of good officers on the 4 street, police officers, but you can quote me, 5 it's some -- I wish I can use the lack of better 6 terms, but it's some negative officers as well out 7 there as well as some deputy sheriffs in the 8 county jail as well as correctional officers in 9 the institutions. 10 I try to find the good, and upon me 11 finding the good, I like to communicate. I'm a 12 sociable person, and the big -- and on that note 13 pertaining to in jail is that back in the day, you 14 had officers that -- that dealt with stuff in a 15 man-type mannerism, and that's -- and I say that 16 to say that they don't need the whole group to be 17 tough. 18 They -- you know, if they have a 19 problem with you, they going to speak to you like 20 a man and they going to conduct the situation like 21 a man. 22 Then you got officers that in all 23 sincerity, in high school, junior high school and 24 everything, they lunch money was constantly 25 tooken. They was constantly bullied and they</p>	<p>1 inmate/officer. He deals with me first as a man, 2 and that first gets my respect. 3 Then I know in all sincerity, without 4 all his friends around, he will -- he will handle 5 himself like a man with me. Then there's officers 6 that's not like that. 7 The big one, the way he conducted 8 himself the time periods that I done been in his 9 presence and what I've seen of him, I had a liking 10 of him because I seen a man, not a coward, not a 11 guy -- and cowards come in packs, lots of gangs, 12 Crips, Bloods, and all that stuff, but in the 13 correction office situation, police officer, 14 deputy sheriff, it's a lot of cowards there, a lot 15 of them, you know, and -- 16 Q. What kind of guy was Stumpff? Did 17 you have an opinion of him? 18 A. The little one with the dark hair? 19 He was -- 20 Q. If that's -- 21 A. -- he was a coward, he was a coward. 22 I know a man when I'm dealing with a man, and I 23 respect them because they give me respect, and I 24 don't do no ass -- I mean, excuse me -- I don't do 25 no -- no rectum kissing. I don't do that.</p>

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21 (Pages 78 to 81)

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<p>1 MR. HILL: That sounded a lot worse 2 than what you were actually going to say. 3 THE WITNESS: Yeah, right, but the 4 big guy, he was a stand-up guy, so I don't have -- 5 I don't have -- even with what I've heard, but 6 upon what I heard, I didn't hear -- I didn't hear 7 he was racist or anything. 8 It might just be a case of you 9 conduct yourself unmanly like and he's going to 10 treat you like such. So that's what I've kind of 11 heard as far as I say, when I heard he done put 12 his hands on guys before, and I wasn't saying that 13 in a mannerism that it was just inmates or -- I 14 don't think it would be just inmates. 15 I think like you catch him in a bar, 16 you get on his bad side and he going to handle 17 you, period. He just a man about his business. 18 You feel me? Oh, I'm about to go -- anyway -- 19 BY MR. PREGON: 20 Q. All right. Let's -- all right. At 21 some point in time, Mr. Richardson passed away up 22 on the range? 23 A. Yes, sir. 24 Q. When that happened, kind of walk me 25 through what you saw.</p>	<p>1 needle and then I don't know if they even tried to 2 administer the second needle, but through that, 3 then it's like he's there, he's just laying there, 4 and they put a sheet over him, and I don't know if 5 they put it over -- over his head, but they put a 6 sheet on him, and it might have been just here 7 (indicating) or it might have been all the way 8 over him (indicating). 9 And it's like they was standing 10 around communicating and then they went to 11 transfer his body, and I don't know if they put 12 him on a sheet or on one of them -- I don't think 13 it could have been a -- it couldn't have been a 14 boat, so it either had to have been a sheet or a 15 body bag or something like that, because whatever 16 it was that they was transferring him on, it had 17 to have enough give to it to where something was 18 banging on the steps, either his head, his arm, a 19 foot, you know, something either hanging or -- you 20 know (indicating) or his feet, something. They 21 just was dragging him down the stairs. 22 Q. That's as they were taking him out? 23 A. Yes. 24 Q. After he'd passed? 25 A. Right.</p>
<p style="text-align: center;">Page 82</p> <p>1 A. Well, I seen them come with one shot, 2 and it wasn't successful in my opinion of what I 3 seen. 4 Q. Could you see what happened with the 5 shot, with the first shot? 6 A. I can't remember where they was 7 trying to stick him at, but I seen them come and 8 it was like they was trying to give him a shot, 9 and I don't know if the needle bent or broke or if 10 it couldn't penetrate his clothes or if there was 11 no response, but they came with the shot, and it 12 was like the nurses was communicating with each 13 other like, well, it ain't working or something, 14 it ain't -- it ain't go through or it ain't 15 penetrate or it ain't -- or the needle broke or 16 this ain't the right medicine or whatever it was. 17 And they squirted one of the 18 needles -- they squirted one of the needles to see 19 like the stuff coming out. I don't know if that 20 was the first needle or the second needle and I 21 don't recall specifically what happened with the 22 needles, but something wasn't right, something 23 wasn't right. 24 Q. Okay. 25 A. Because they had to come with another</p>	<p style="text-align: center;">Page 84</p> <p>1 Q. Do you know if they carried him out 2 headfirst or feetfirst, or could you tell because 3 he was covered up? 4 A. I want to say it would have been 5 feetfirst. 6 Q. Are you guessing? 7 A. Yes. 8 Q. Okay. 9 A. I'm partially guessing, but I'm 10 guessing upon what I'm believing that I'm seeing 11 in my memory, upon what I've seen. 12 Q. Okay. Did it look to you that the 13 officers were trying to hold him for the nursing 14 staff to deal with? 15 Is that what you thought was going 16 on? 17 A. Huh-um, because even before the 18 nursing staff came, I didn't see no -- he was not 19 struggling. It almost appeared like they killed 20 him fast, like the on-the-neck -- the 21 knee-on-the-neck stuff, like this had already took 22 him out, like he had already passed early on and 23 all the other stuff that came up behind that, like 24 he was already passed where it wasn't nothing to 25 restrain. There wasn't nothing to restrain.</p>

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<p>1 Q. You think that happened fast?</p> <p>2 A. I think that -- yeah.</p> <p>3 Q. Okay.</p> <p>4 A. Because all the time period I seen, 5 he wasn't struggling. He wasn't being disobedient 6 or rebellious or anything at the time. He wasn't 7 struggling. He wasn't disobeying a direct order. 8 It wasn't like he was not complying.</p> <p>9 Q. Okay. And you're not sure if you 10 witnessed the whole thing or, you know, part of 11 it; is that fair for me to say?</p> <p>12 A. Yes, sir, it's fair, because -- I'll 13 say it's fair because I'm not a hundred percent 14 sure about that sitting in the cell --</p> <p>15 Q. The part at the beginning?</p> <p>16 A. -- but it's some -- it's sitting 17 there, it's sitting in my brain, it's sitting in 18 my head, and it's making me like -- I'm forcing 19 myself to question myself about that because I 20 don't want to say nothing that I'm not a hundred 21 percent sure about, and that -- and -- and -- and 22 I'm forcing myself to say, are you sure you seen 23 that or was that a recollection upon what somebody 24 said to you.</p> <p>25 But what I keep recollecting is</p>	<p>1 talking about or saying?</p> <p>2 A. No, sir, but I seen -- you know, I 3 could tell that there was a bunch of communication 4 going on. I can tell that they was talking, I can 5 tell that they was talking, and I can tell like 6 the -- the white -- the lieutenant, sergeant, 7 captain, I'm not sure what the ranking of the 8 white shirts was, but it seemed like they was 9 trying to communicate to get an understanding of 10 what all done happened, and it's where he would be 11 able to -- when he have to supply his report, 12 that, you know, well, this officer said this to 13 me, this officer said that to me, and at the time 14 period when I got there, I observed X, Y, and Z, 15 you know, to where he was trying to, you know, 16 circle the wagons and get an understanding of what 17 all just happened.</p> <p>18 Q. Did you see any of the officers or 19 nurses joking around or, you know, making jokes or 20 laughing or anything like that?</p> <p>21 A. I -- I -- I seen some -- I seen 22 some -- I seen some -- you know, some snickering, 23 some giggles and stuff, I did see that. I didn't 24 see -- I seen some outside-of-somber mentality and 25 et cetera. I seen some, I recall, I recall, yeah,</p>
<p style="text-align: center;">Page 86</p> <p>1 something that I seen, and I don't -- it don't 2 make sense, you know, because it's like I can see 3 his dark -- because he's a dark-completed guy. 4 I'm seeing this dark-skinned male sitting on the 5 floor of the cell like he's trying to get hisself 6 together, like what happened or, you know, it's 7 like he's shaking his head like, you know, he's 8 kind of out of a stupor, out of a slump, out of a 9 fog.</p> <p>10 This is what I keep seeing. I'm 11 seeing him sitting on the floor with his back 12 against the wall with his bunkie sitting there and 13 maybe the officers at the door and maybe telling 14 him to come out, and maybe he's not able to comply 15 because he's not all the way cognigent (sic), he's 16 not all the way there, and so I don't know.</p> <p>17 Q. Okay. Could you hear any of the 18 interaction between the officers and the medical 19 staff, the nursing staff there?</p> <p>20 A. No, because I want to say they was 21 speaking in hushed tones and hushed-type volume, 22 like what happened? I don't know. Did you -- you 23 know, that type of a hushed tone (indicating).</p> <p>24 Q. What about interaction among the 25 officers? Could you hear anything they were</p>	<p>1 yeah.</p> <p>2 Q. But you couldn't hear what they were 3 saying or anything like that?</p> <p>4 A. No, no. I recall everybody was not 5 in a somber mood.</p> <p>6 Q. When you say everybody, you don't 7 mean all of them?</p> <p>8 A. No, not all of them.</p> <p>9 Q. Okay.</p> <p>10 A. I just recall -- I don't recall who 11 it was, but I recall some people -- I remember 12 hearing some giggling. I don't know what it was 13 about, you know, if it was pertaining -- I doubt 14 if it was about the situation, or it could have 15 been -- you know, it could have been about 16 something they seen on TV the night before or 17 whatever, but somebody might have passed gas, 18 like, well, you was trying to hold him down and 19 you passed gas, ha-ha-ha. I don't know what it 20 was about, you know.</p> <p>21 Q. Right. Was it after they had taken 22 Mr. Richardson out after he had passed that you 23 guys were let out of your cells and went down and 24 talked to the detectives?</p> <p>25 A. Yes. Yes, sir, it was later.</p>
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<p>1 Q. Okay. And on your written statement, 2 it says, Officer -- it was Sergeant Stephens. Do 3 you remember who Sergeant Stephens was?</p> <p>4 A. Huh-um. Who was that?</p> <p>5 Q. Well, I assume that's the one --</p> <p>6 A. Oh, the one who interviewed me?</p> <p>7 Q. -- yeah, who took your statement.</p> <p>8 A. Yeah. I don't know who -- I don't 9 know who that was.</p> <p>10 Q. Was it more of a group discussion or 11 was it a one-on-one with somebody?</p> <p>12 A. One-on-one.</p> <p>13 Q. Okay. And at the time you wrote this 14 statement out, had you already had the chance to 15 speak with some of the other inmates who were 16 milling around?</p> <p>17 A. No, sir.</p> <p>18 Q. And you said you remember one was 19 kind of going off?</p> <p>20 A. Yes, sir. I can just see the motions 21 and the energy through the slot in his door, you 22 know, like (indicating) --</p> <p>23 Q. He was still in his cell when he was 24 going off?</p> <p>25 A. Yeah.</p>	<p>1 Q. How did you know he was a nurse?</p> <p>2 A. Because I forgot, but I was taking --</p> <p>3 I was getting meds for something, Band-Aid, A&D 4 ointment or something, cut, and -- or ibuprofen or 5 something or my back, or I don't remember exactly 6 what it was, but I had -- and then also, you have 7 to remember, I had been in the county for at 8 least -- I did about seven months in the county, 9 so I'm seeing them come in for different people 10 for the medications and stuff, and I remember -- 11 did I say he was large? Did I say he was large?</p> <p>12 Q. Uh-hum.</p> <p>13 MR. PREGON: Yeah.</p> <p>14 THE WITNESS: Yeah. He's a bigger 15 guy, and I can probably describe because he's not 16 that tall. He might be maybe five ten. He's 17 about my height, maybe shorter, I don't recall, 18 heavyset guy, and I want to say he had some 19 Reeboks.</p> <p>20 You remember the Reeboks with the -- 21 the wiggly soles, all the soles are zigzag or 22 stuff like that, they call it?</p> <p>23 BY MS. STARTS:</p> <p>24 Q. Uh-hum.</p> <p>25 A. But I remember he had some of them</p>
<p style="text-align: center;">Page 90</p> <p>1 MR. PREGON: Okay. Mr. Wayne, at 2 this point, I'm going to go ahead and let the 3 other attorneys ask you questions and then I may 4 have some follow-ups after that. Okay?</p> <p>5 THE WITNESS: Yes, sir.</p> <p>6 MR. PREGON: All right.</p> <p>7 CROSS-EXAMINATION</p> <p>8 BY MS. STARTS:</p> <p>9 Q. My name's Carrie, and I represent the 10 nursing staff. Okay?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. And so I have just some particular 13 questions about what you witnessed related to the 14 nursing staff.</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. It wasn't clear to me when you were 17 testifying if you heard any statements made by the 18 nursing staff.</p> <p>19 A. No, ma'am.</p> <p>20 Q. Okay. On your written statement, you 21 indicate that there was a large male nurse by his 22 head.</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. Had you ever seen this nurse before?</p> <p>25 A. Yes, ma'am.</p>	<p>1 kind of shoes. Caucasian.</p> <p>2 Q. Okay. You state that the large male 3 nurse at the inmate's head -- you have the large 4 male nurse at the inmate's head kept wiping his 5 face and trying to restrain his head.</p> <p>6 A. Yes.</p> <p>7 Q. What did you mean by restrain his 8 head?</p> <p>9 A. In pertaining to recollection and 10 trying to -- what makes sense to me, he might have 11 been -- Richardson might have been moving his 12 head, you know, during a time period -- one time 13 period saying, I can't breathe or whatever, and I 14 think he was sweaty, Richardson had to have been 15 sweaty, and the nurse kept wiping his face, and 16 he -- I want to say he put something up under his 17 head.</p> <p>18 Q. Right. Your statement indicates he 19 put a towel under his head.</p> <p>20 A. Okay. Yes. He put something up 21 under his head.</p> <p>22 Q. And you say, to try to cushion his 23 head from the floor is what your statement says.</p> <p>24 A. I don't know. I guess that's what he 25 would -- the only thing that would make sense to</p>

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<p>1 me is that -- to put something up under his head 2 would be to cushion his head from the floor. Q. When you said he was -- he restrained his head, did you mean that he put pressure on it or -- A. He might have held it. Hold on. Give me a second. He might have -- no. I'm not saying pressure. I would just say he -- he was like maybe keeping his head from moving or anything. Q. Okay. Did you see an oxygen mask? A. No, ma'am. Q. Did you see any attempt to place an oxygen mask on Mr. Richardson's face? A. No, ma'am, but I would say this: It's possible, you know, the -- no, they didn't have one of them because I was thinking they might have had that one oxygen mask that -- with the bubble to it that you do that (indicating). Q. Uh-hum. A. But no, I don't recall no oxygen mask. Q. Okay. After the nurses arrived on the scene, did you witness that a nurse was in the pod during the entire interaction once they were</p>	<p>1 was trying to hold his head still but he wasn't 2 thrashing or anything, but when they was trying to 3 give him a shot -- when they was trying to give 4 him a shot, they -- they was in there hands-on, 5 and maybe even before the shot, maybe a nurse was 6 kneeling by. 7 A nurse may have been kneeling -- 8 kneeling by with her hands, but not -- not the 9 upper torso. Maybe the middle/lower torso area. 10 It may have been a nurse kneeling -- it was a 11 nurse kneeling by. It was a nurse kneeling by to 12 where his -- and it was the same nurse that was 13 standing up against the wall at one time period, 14 because it's like I want to say they would go to 15 do something and then back away, you know, maybe 16 go to try to help and then back away. 17 It was -- it was -- it was -- it was 18 nurses there. It was the big male nurse that was 19 wiping the head. He was -- he was -- he was 20 moving around. The big male nurse, he didn't just 21 stay at the head area. He didn't just stay at the 22 head area, because I want to say it was him and 23 maybe two other female nurses that was there 24 because I remember the one female nurse was there 25 and when they had tried to apply the shot and</p>
<p style="text-align: center;">Page 94</p> <p>1 on the scene? A. Yes, ma'am. It was multiple nurses in there. Q. Was there -- A. Early on it was a nurse had came in there, and she was standing -- it would be closer to the cells to the right, higher -- higher past his head. So like if I -- if -- if this was him (indicating), this table was him, she would have been -- and this is his foot (indicating), she would have been further back, at least back against the window, this window here (indicating), and up toward his head, but she wasn't on hand at the time. Q. Would you agree, based upon what you witnessed, that the nursing staff was not involved with the restraint process? A. The restraint? Q. The restraint process. A. The one big nurse. Q. Okay. And how would you say he was involved? A. He was wiping his head and put something under his head -- under his head, and</p>	<p>1 something didn't happen right, the other nurse 2 that was there went to go get the other shot, 3 maybe another female nurse. So it could have been 4 up to three female nurses that came along at that 5 time throughout the whole thing. Q. Would you agree that during this process, Mr. Richardson was never facedown -- MR. HILL: Objection. You can answer. BY MS. STARTS: Q. -- from what you saw? A. No. He was facedown. Q. You think he was facedown, not head to the side? A. It was -- his head was -- his head was to the side. Q. With one ear to the floor is what I'm describing. A. I would say his head was to the side. Q. Okay. A. It was to the side. Q. You mentioned that your cousin's wife's sister is a nurse. A. Yes. Q. Did you mean at the jail?</p>

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<p>1 A. Yes, ma'am.</p> <p>2 Q. And what is her name?</p> <p>3 A. I don't know if I want to provide</p> <p>4 that information because I wouldn't want no type</p> <p>5 of pressure or anything --</p> <p>6 Q. Was she involved in this incident?</p> <p>7 A. No, ma'am. I don't -- I don't recall</p> <p>8 seeing her there.</p> <p>9 Q. Do you know if she has any information about this incident?</p> <p>10 A. Probably from communicating with his</p> <p>11 coworkers.</p> <p>12 Q. And you won't provide her name?</p> <p>13 A. I don't want -- I don't -- I'm not</p> <p>14 trying to get nobody in no kind of trouble. I</p> <p>15 shouldn't have said his name.</p> <p>16 Q. Had you ever talked to Mr. Richardson prior to this incident?</p> <p>17 A. No, ma'am, I hadn't never laid eyes</p> <p>18 on him, that I recall. I don't know what he</p> <p>19 looked like even to this day to whereas I may --</p> <p>20 may have seen him before, may know him, but I</p> <p>21 don't know.</p> <p>22 I would have to see a picture of him,</p> <p>23 because I seen him from afar (indicating), but I</p>	<p>1 Q. Just a few to follow up, make sure I'm following it. You got your statement here?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Okay. I brought --</p> <p>4 A. Is this one with the stamp on it for</p> <p>5 me to keep?</p> <p>6 MR. PREGON: No, no, no, no.</p> <p>7 BY MR. HILL:</p> <p>8 Q. No. That'll go to her, but hold on to it because I just want to show you -- and I think I understand the process. This one has a different -- it's the same document, it looks like (indicating). Okay?</p> <p>9 A. Uh-hum.</p> <p>10 Q. But it doesn't have the signature information from the sergeant up top, I think that is.</p> <p>11 MR. HILL: Do you mind if I shut this</p> <p>12 door?</p> <p>13 MR. PREGON: Yeah. Go ahead. Let me</p> <p>14 look at this.</p> <p>15 MR. HILL: Yeah. That was in our</p> <p>16 file. It's got a different Bates number on it, so</p> <p>17 I think there were two copies in the file when you</p> <p>18 shipped them over.</p>
<p style="text-align: center;">Page 98</p>	<p style="text-align: center;">Page 100</p>

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<p>1 A. Yes, sir.</p> <p>2 Q. So this was fresh in your mind when</p> <p>3 you saw this?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And I want to ask you a few</p> <p>6 questions, then, about what you wrote here and</p> <p>7 some of the things that you've already described,</p> <p>8 but understand that I want to talk about the</p> <p>9 things that you said you remember with a hundred</p> <p>10 percent certainty, things that you can form in</p> <p>11 your own mind.</p> <p>12 You talked about being able to look</p> <p>13 from your vantage point in your cell and looking</p> <p>14 up, and you could tell the difference between</p> <p>15 somebody who's hovering over someone or these</p> <p>16 officers putting force or pressure on</p> <p>17 Mr. Richardson, correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And you said you could tell that</p> <p>20 there was pressure being applied, and you say this</p> <p>21 in your statement as well, but there was pressure</p> <p>22 being applied to Mr. Richardson's head, neck, and</p> <p>23 shoulders by CO Mayes; is that correct?</p> <p>24 A. Yes, sir.</p> <p>25 Q. That's what you saw?</p>	<p>1 pressure, was Mr. Richardson, once again, belly</p> <p>2 down?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And then in your statement, you</p> <p>5 describe and you talked about earlier in response</p> <p>6 to the questioning of Mr. Pregon that Mr. Mayes</p> <p>7 then resumed or continued applying pressure to</p> <p>8 Mr. Richardson?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And you described that Mr. Mayes you</p> <p>11 saw put his knee on the back of Mr. Robert</p> <p>12 Richardson's neck; is that correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And when you saw that, what you were</p> <p>15 describing, was Mr. Richardson once again -- was</p> <p>16 he belly down on the ground?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And you described earlier that --</p> <p>19 well, let me ask you, there was a period where you</p> <p>20 described that after pressure was applied for some</p> <p>21 time, Mr. Richardson essentially stopped moving.</p> <p>22 A. He had never been moving.</p> <p>23 Q. I'm sorry, but I mean, it looked like</p> <p>24 it was over as far as Mr. Richardson's life,</p> <p>25 correct?</p>
<p style="text-align: center;">Page 102</p>	<p style="text-align: center;">Page 104</p>

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<p>1 can't breathe, that was early on when you first -- 2 your attention was drawn up to that area -- 3 A. Yes. 4 Q. -- where there was this commotion 5 outside of Mr. Richardson's cell? 6 A. Yes. 7 Q. And then after that, you observed the 8 force and the pressure that we just talked about 9 from Mr. Mayes and Mr. Stumpff? 10 A. Yes. And to allow me to verify and 11 clarify, to quote something, is that pertaining to 12 not being able to breathe, I want to be sure about 13 that, and so I will say this: It was either he 14 screamed that he can't breathe or grunted it out 15 or somebody in the cell said, he can't breathe. 16 Q. Either way, you heard -- 17 A. I heard that. 18 Q. -- you heard it coming from that 19 direction as this commotion -- 20 A. Yeah. It would have been either him 21 or his neighbor. 22 Q. And it would have been while these 23 officers had Mr. Richardson on the ground? 24 A. Yes. 25 Q. Okay. You talked about having a</p>	<p>1 Michael Layman, I don't know. 2 BY MR. HILL: 3 Q. You're not sure if that's the 4 individual? 5 A. Yeah. 6 Q. Let me ask you a few things just in 7 case sometime down the road we get to meet your 8 cellmate or pod member. 9 When you were looking out the 10 window -- I just wanted to make sure I understood 11 it -- Cornbread, your cellmate at the time, was a 12 couple inches taller than you? 13 A. Yeah. 14 Q. So he had the ability to like kind 15 of -- you were both able to look simultaneously? 16 A. Right. 17 MR. PREGON: Objection, but go ahead. 18 I may have to object from time to time, but 19 there's no judge in here -- 20 THE WITNESS: I understand. 21 MR. PREGON: -- so nobody's going to 22 tell me up or down on it. 23 BY MR. HILL: 24 Q. And as we're looking at the door 25 here, as we described, it's a wood kind of office</p>
<p style="text-align: center;">Page 106</p> <p>1 cellmate, and I think you referred to him as 2 Cornbread? 3 A. Yes. 4 Q. There is another statement we have in 5 the file of an individual named Michael Lee 6 Layman, and there's a cell number 434, D pod, and 7 I think that's your cell number as well, right? 8 A. Right, right. 9 Q. Do you know if this individual, this 10 Michael Layman, Layman, if that's Cornbread? Are 11 you able to identify that at all other than the 12 fact that this person had the same cell number? 13 A. Is it okay for me to look at that? 14 Q. Sure. 15 MR. PREGON: Yeah. 16 THE WITNESS: Okay. 17 MR. PREGON: I will object if you're 18 going to ask him any questions about what's in 19 that document as hearsay, but if you're just 20 asking him about the name -- 21 MR. HILL: Sure. I'm going to ask 22 him about the name and a few things he observed, 23 but I understand your objection. 24 (Pause in proceedings.) 25 THE WITNESS: Yeah. I don't --</p>	<p style="text-align: center;">Page 108</p> <p>1 door but it's got this long rectangular window, 2 right? 3 A. Yes, sir. 4 Q. Just describe, then, to me where you 5 would have been positioned and where your cellmate 6 would have been positioned and just describe it 7 with respect to the door. 8 A. I would have been standing in front 9 to the left of the door and my cellie would have 10 been standing in front to the right behind me of 11 the door, and he would have been able to see up 12 over my head and then I would have shifted to the 13 right in front of the door, he would have shifted 14 to the left behind me in front of the door. 15 Q. So it sounds like -- you tell me -- 16 during the entirety of this event, were you able 17 to see out the window? 18 A. All the time. 19 Q. Okay. If you could, what I showed 20 you earlier, which appears to be your statement 21 without the signature of the officer and a Social 22 Security number and a date of birth, can you just 23 identify that for the record, that that's a copy 24 of your statement that you created? 25 A. That is a copy of my statement.</p>

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<p>1 MR. HILL: Let's just mark it. Do 2 you want to do it as Defendants' Exhibit B or a 3 Plaintiffs' exhibit just so we have it for the 4 record?</p> <p>5 MR. PREGON: Is there a reason? 6 Because --</p> <p>7 MR. HILL: Only because we just 8 talked about it. I don't want to look back on the 9 deposition six months from now and say what were 10 we talking about.</p> <p>11 MR. PREGON: Yeah. Go ahead.</p> <p>12 MR. HILL: And we'll just mark 13 that -- do you want to do Plaintiffs' Exhibit, 14 though, or Defendants' Exhibit B just to keep 15 it --</p> <p>16 MR. PREGON: Let's just do 17 Defendants' Exhibit B. That's easier.</p> <p>18 (Thereupon, Defendants' Wayne 19 Deposition Exhibit B, Mr. Wayne's 5/19/12 20 handwritten statement without DOB, SSN, Officer, 21 and location, was marked for purposes of 22 identification.)</p> <p>23 MR. HILL: I'm done.</p> <p>24 FURTHER CROSS-EXAMINATION 25 BY MR. PREGON:</p>	<p>1 Q. Now, there's video evidence and 2 there's testimony from the guys who were up on the 3 range that there was somebody on each of his 4 shoulders, somebody at the head, and then somebody 5 at the feet.</p> <p>6 Would you argue with that if you saw 7 a video and you could actually see who was where?</p> <p>8 A. No, I wouldn't be able to argue, not 9 against a video.</p> <p>10 Q. Right. Okay. I guess that's what 11 I'm asking. The video shows what it shows.</p> <p>12 A. Yes, sir.</p> <p>13 Q. The whole time that you were 14 watching, was that big guy who you say is Mayes, 15 was he there that whole time you were watching?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Okay. And you had mentioned -- you 18 said that there was a period of time where they 19 were trying to hold Mr. Richardson on his side.</p> <p>20 Could you tell what was making that 21 so hard for them to do, why it was so hard for 22 them to hold him to the side?</p> <p>23 A. Yeah.</p> <p>24 Q. What was going on?</p> <p>25 A. He was expired or he was unconscious,</p>
<p style="text-align: center;">Page 110</p> <p>1 Q. I've got a couple of follow-ups, 2 though. Mr. Wayne, is it fair for me to say that 3 you can't identify by name which officers were 4 positioned where when it came to Mr. Richardson up 5 on the range?</p> <p>6 You couldn't look at a picture and 7 say, yeah, that was Stumpff here, that's --</p> <p>8 A. Yeah, I could do that.</p> <p>9 Q. You could do that?</p> <p>10 A. Yeah.</p> <p>11 Q. But do you know the names of anybody 12 else who was up there?</p> <p>13 A. No, sir.</p> <p>14 Q. So I guess that's what I'm saying.</p> <p>15 A. I know two names now because of 16 y'all, that's Stumpff and Mayes, but it was 17 somebody else, it was another officer.</p> <p>18 Q. It was another officer that what?</p> <p>19 A. That was trading places with them at 20 the foot, at his foot.</p> <p>21 Q. Okay. Okay.</p> <p>22 A. Only two people was at the head, that 23 was Stumpff and Mayes, but it was another officer 24 also. When -- when -- when Stumpff wasn't holding 25 his legs, it was another officer down there.</p>	<p style="text-align: center;">Page 112</p> <p>1 so they had to control his movement, you know. 2 You let him go, he's just going to flop back over 3 because he's not conscious. He was not -- he has 4 no ability to keep himself up.</p> <p>5 Q. Okay. At any point in time, did you 6 see Mr. Richardson trying to bite at the big nurse 7 that was by his head?</p> <p>8 A. No.</p> <p>9 Q. Okay. And I think after Mr. Hill 10 talked to you a little bit more about the 11 statement that I can't breathe, what I heard you 12 say is you're not sure whether or not that 13 actually came from Mr. Richardson or if that came 14 from somebody else who was up there.</p> <p>15 A. Yes, sir. It would have either been 16 him or it would have been that guy that was in 17 that window that was going off, in that cell 18 window.</p> <p>19 Q. Okay. Did the County offer you any 20 type of counseling after this event?</p> <p>21 A. Grief counseling? They might have. 22 I don't know.</p> <p>23 Q. Do you remember, did you participate 24 in that if it was --</p> <p>25 A. No. No, I wouldn't have.</p>

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29 (Pages 110 to 113)

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<p>1 Q. You wouldn't have?</p> <p>2 A. No.</p> <p>3 Q. Let me ask you this, Mr. Wayne,</p> <p>4 because I kind of forgot to do it before: There's</p> <p>5 evidence that Mr. Richardson had marijuana in his</p> <p>6 system when he expired.</p> <p>7 A. Uh-hum.</p> <p>8 Q. Do you know while you were at the</p> <p>9 jail there, did you see inmates with marijuana in</p> <p>10 the jail?</p> <p>11 A. No, sir.</p> <p>12 Q. You never saw anything like that?</p> <p>13 A. No, sir.</p> <p>14 Q. Did you ever hear stories or witness,</p> <p>15 you know, anybody trying to smuggle drugs into the</p> <p>16 jail?</p> <p>17 A. It's -- it's -- it's there. I know</p> <p>18 it's there --</p> <p>19 Q. Right.</p> <p>20 A. -- I mean, undisputedly, but in my</p> <p>21 circle of people, I didn't see anybody with any, I</p> <p>22 didn't hear nobody talking about it, but -- but</p> <p>23 I'm trying to think, you know.</p> <p>24 I don't know if it was this time I</p> <p>25 was in the county jail or another time when I was</p>	<p>1 does because like a lot of guys get arrested for</p> <p>2 selling drugs and they keep it in there, in their</p> <p>3 buns, between -- you know.</p> <p>4 Q. Because they can't do a body cavity</p> <p>5 search when they bring them in, right?</p> <p>6 A. Right. They can -- they search you,</p> <p>7 but if it's in you, you know --</p> <p>8 MR. PREGON: Right. Okay. I think</p> <p>9 that's all I've got for you, Mr. Wayne. Anybody</p> <p>10 else?</p> <p>11 MS. STARTS: Huh-um.</p> <p>12 MR. PREGON: Okay.</p> <p>13 THE WITNESS: How long had he been in</p> <p>14 the county?</p> <p>15 BY MR. PREGON:</p> <p>16 Q. Mr. Richardson?</p> <p>17 A. Yes, sir. How long had</p> <p>18 Mr. Richardson been in the county?</p> <p>19 MR. HILL: It's less than two days.</p> <p>20 BY MR. PREGON:</p> <p>21 Q. Yeah. He was pretty quick in there.</p> <p>22 A. Okay. That would have been in his</p> <p>23 system from the streets, marijuana. Marijuana</p> <p>24 stays in your system for at least thirty days, and</p> <p>25 the kind of marijuana they smoke today is</p>
<p style="text-align: center;">Page 114</p> <p>1 in the county jail, but I recall at one time</p> <p>2 period somebody smoking some marijuana on the</p> <p>3 basketball court, but like I say, I don't know how</p> <p>4 long Mr. Richardson was in my pod. I had never</p> <p>5 seen him. I had never seen him.</p> <p>6 Q. Okay.</p> <p>7 A. So -- and I be out. I don't stay in</p> <p>8 my cell. I get on the phone, I watch television,</p> <p>9 I write songs, R&B, slow music, and I be on the</p> <p>10 handball court, and I might be singing, you know,</p> <p>11 and it wasn't on that pod, because I was on</p> <p>12 another pod when I was there, and I was working</p> <p>13 with somebody on some music, about some music, in</p> <p>14 another pod.</p> <p>15 That's D pod? I was in D pod? So I</p> <p>16 might have been in C pod before D pod, and I think</p> <p>17 they moved me across there, because one of my</p> <p>18 cousins ended up being my cellie.</p> <p>19 Q. You ever hear the term keistering?</p> <p>20 A. Yeah.</p> <p>21 Q. And you know what that is?</p> <p>22 A. Yeah.</p> <p>23 Q. Did you ever know of that type of</p> <p>24 activity going on at the Montgomery County Jail?</p> <p>25 A. No, but I know for certain that it</p>	<p style="text-align: center;">Page 116</p> <p>1 stronger, more potent, so ain't no telling how</p> <p>2 long that could be in his system.</p> <p>3 Q. Okay. Well, in any event, you don't</p> <p>4 have any idea whether he had done it in the jail</p> <p>5 or done it before? You don't know anything about</p> <p>6 that?</p> <p>7 A. No, but --</p> <p>8 Q. But you know it's possible that he</p> <p>9 could have before he came in?</p> <p>10 A. Yes, very possible. I mean, that's</p> <p>11 more likely, because like I said, I hadn't seen</p> <p>12 him, so -- and if I had have seen him -- and like</p> <p>13 I said, I be on that basketball court. That's</p> <p>14 where they would have smoked at, because you can't</p> <p>15 smoke in your cell. There's no proper ventilation</p> <p>16 in your cell. It would reek.</p> <p>17 Q. Okay.</p> <p>18 A. So he would have had to smoke it on</p> <p>19 that basketball court if he had some in the</p> <p>20 institution -- or in the county. I'm talking</p> <p>21 about institution.</p> <p>22 MR. PREGON: Okay. And I think</p> <p>23 that's all we've got for you. Thank you for your</p> <p>24 time today.</p> <p>25 THE WITNESS: Yes, sir.</p>

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30 (Pages 114 to 117)

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Keith O. Wayne

1 MR. HILL: So you have two options
 2 here. If we order the transcript, if you waive
 3 your signature, it means she just types it up and
 4 that's it.

5 You also have the option to want to
 6 read and sign the transcript of today's
 7 deposition. What that means is you get a chance
 8 look at it, make any corrections.

9 If you didn't understand our
 10 question, if something was transcribed improperly,
 11 you get a chance to make any corrections, and if
 12 you don't do anything, after thirty days, it just
 13 becomes certified as if you had no changes.

14 Do you want to have a chance to read
 15 it?

16 THE WITNESS: I'm good.

17 MR. PREGON: All right.

18 THE NOTARY: All right. Does anybody
 19 wish to order at this time?

20 MR. HILL: Are you going to order?

21 MR. PREGON: Not yet, but I'll get
 22 back to you.

23 MR. HILL: I'll order this one,
 24 e-tran.

25 THE NOTARY: Regular delivery?

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1 MR. HILL: Yeah, that's fine.

2 MS. STARTS: I'll take a copy as
 3 well.

4 MR. PREGON: So it was ordered? Then
 5 I'll order a copy of it.

6 (Thereupon, the deposition was
 7 concluded at 3:38 o'clock p.m.)

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Keith O. Wayne

1 STATE OF OHIO)
2 COUNTY OF MONTGOMERY) SS: CERTIFICATE
3 I, Caryl L. Blevins, a Notary
4 Public within and for the State of Ohio, duly
5 commissioned and qualified,
6 DO HEREBY CERTIFY that the
7 above-named KEITH O. WAYNE, was by me first duly
8 sworn to testify the truth, the whole truth and
9 nothing but the truth.

10 Said testimony was reduced to
11 writing by me stenographically in the presence
12 of the witness and thereafter reduced to
13 typewriting.

14 I FURTHER CERTIFY that I am not a
15 relative or Attorney of either party, in any
16 manner interested in the event of this action,
17 nor am I, or the court reporting firm with which
18 I am affiliated, under a contract as defined in
19 Civil Rule 28(D).

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Keith O. Wayne

1 IN WITNESS WHEREOF, I have hereunto set
2 my hand and seal of office at Dayton, Ohio, on
3 this 11th day of June, 2016.

4

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8

CARYL L. BLEVINS

9

NOTARY PUBLIC, STATE OF OHIO

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My commission expires 7-16-2018

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